1941-42

LEGIS

F No. 44-41

SL No. 1

1941-42

File No. 44 L.

Sl. Nos. 1

Legis

PRESERVED

Part B for Aug 48

Mysore Labour Bill

To the Compiler Mysore Gazette

No RL 1523 dt 44-41-2 dated 27-1-42

Directs for the Publication of the Mysore Labour Act 9

as Act No XIII of 1944

N.T. [illegible]

19-8-48

mas

Serial No.

Question of appointing a Committee to consider measures for dealing more effectively with industrial disputes etc.

******

(1) The question of enacting a law in the State somewhat on the lines of the Bombay Trade Disputes Act was tentatively considered in the year 1938-39. The then Director of Industries and Commerce prepared a draft bill for examination. (Vide file placed below.) It was however thought that the matter might be deferred for some time and no further steps in this direction were taken. In the file relating to Rajasevaprasakta Mr. A.V.Ramanathan's report on the strike in the B.W.C & Silk Mills in January-February last, it has been suggested that legislation to empower Government to deal more effectively with disputes between employers and workers is now called for. In his report on the conditions of labour in Kolar Gold Fields Rajamantrapravina Diwan Bahadur K.Matthan has adverted to this need.

(2) There is no doubt that legislation designed to meet this need is called for. In the order proposed in connection with the report of Mr.Ramanathan it is stated that Government have under active consideration the question of appointing a Committee to examine the measures necessary and make suitable proposals for the purpose

(3) The draft of an act prepared by Rajakaryaprasakta Mr.A.V.Ramanathan is placed in the file. Copies of this draft have been sent to heads of our Industrial Departments and a few other officers, to the Chairman of the Mysore Sugar Company, B.W.C. & Silk Mills,

NOTE—Contn. Sheet.

Bangalore, Mr. V.N. Chandavarkar of the management of the Mysore Miverva Mills, and to the Secretary, K.G.F. Mining Board. Opinions upon the draft have been received from some of the addressees. The views of others are awaited. To consider the question of necessary legisation with this draft of an act as the basis and ~~and~~ recommend ~~the measures to be taken and recommend~~ the measures o be taken, it is proposed to appoint the following ommittee:

I Official Members.

1. Rajakaryaprasakta Mr. A.V. Ramanathan, Labour Commissioner - Chairman.
2. The Director of Industries & Commerce in Mysore.
3. The Secretary to Govt., Development Department.

II Non-official Members (a) representing employers interests.

4. A member of the K.G.F. Mining Board- possibly Mr. C. B. Taylor.
5. Mr. Nisbett.
6. A member from the management of the Mysore & Minerva Mills, Bangalore- possibly Mr. V.N. Chandavarkar.

(b) Representing Labour interests

7. Mr. Changalaradhya, Member, Representative Assembly.
8. Brahmachari T. Ramachandra.
9. Some person from the K.G.F. area or other large industrial concern who can speak on behalf of labour.

4) The Labour Commissioner has made proposals for organising a Department of Labour to be in touch with the workers all over the State and help them to form associations and adopt measures necessary to promote a friendly atmosphere between the employers and workers. The Committee may consider this question also.

Serial No.

Submitted in accordance Member's personal instructions.

First Member)

5) I agree Maybe subd to Dewan & Deem Member

27/5/41

Dewan)

Sec Member)

6) 27-5-41

7) 30-5-41

8) 30/5/41

First Member
thro Ch Secy)

9) 30.5.41

OFFICE OF THE SECOND MEMBER OF COUNCIL
28 MAY 1941
No. 12284

8069

MAY 30 1941
12525

Encls. 3 files

LAKE VIEW,
MYSORE.

1st June 1941.

Dear Mr Venkatesa Iyengar,

I am returning herewith the following files:-

(1) Question of appointing a Committee to consider measures for dealing more effectively with industrial disputes.

(2) Labour Commissioner's letter submitting the notes of discussion held by him with a deputation of workmen from the Kolar Gold Field.

(3) Report of Enquiry into the labour strike in the Bangalore Woollen, Cotton and Silk Mills, Ltd.

It seems to me that we may first constitute the committee and then deal with the reports of Mr. Ramanathan and Mr. Matthan. In the Government Order appointing the committee we may refer to the suggestions made in both the reports to the need for labour legislation and also to the draft Bill which is to be referred for the consideration of the committee. If you can get into ~~touch~~ terms of the with Mr. Ramanathan, you may kindly consult him about the draft Government Order.

With Compliments & Rajasekharaiah
Mr A V Ramanathan. A draft G.O. is placed
below for favoring perusal and suggestions
3/6/41

Returned with compliments with some
suggestions in pencil
3/6/41

Yours sincerely
N Madhava Rao

Mr Venkatesa Iyengar, Esq., M.A.,
Secretary to Government,
Development Department,
BANGALORE.

Serial No.

(13) Clean draft adopting the suggs. given above & subd. 3/6/41

Submitted with circulation Memo
Ba
5/6/41.

Dewan)

(14) 4/6/41

(15) Please circulate & submit. 4/6/41

(16) Ch. Secy. We for favour of circ. 5/6/41

(17) Circulate. 5.6.41

NOTE—Contn. Sheet.

File No. vi 193

General and Revenue Secretariat.

Serial No.

(18) A fresh draft is placed on the file with reference to personal discussions

Dewan) 8.6.41

(19) This may be sent to HH for information (by a D.O. letter to P.S. HH)

NM 8/6/41

A copy of the Discussions with the F.S.N. is placed on file

8.6.41

9-6-41

(20) Development Secretary with Compliments

9.6.41

9/6/41

Abstract

No. D. Camp. 5-16/91 Dated 10.6.41

To the Labour Commr.

The Div. Jge

The Dev. Secy.

Mr. R. C. K. Morrison

Mr. A. Nisbett

Mr. V. N. Chandrasekhar.

Mr. T. Chandrasekhya

Mr. T. Ramachandra

Mr. Gurinarayan

Constituted a Committee to examine the question of the organisation of a Labour Department in the State and legislation for the settlement of industrial disputes

DY. DEV. DEPT. 194 GOVT. OF MYSORE

5384 Committee — Organisation Labour Dep

Serial No.

Resolved as per the note

21) The G.O constituting the Committee has issued. It is for the G.O. may be published in the gazette

Yes
11/6/49
10/6.

22) Verify before publication, whether the initials are correct in the case of No 7. and please add the designation of No 6. Mr V.N. Chandrasekhar.)

11/6/49

24) The G.O constituting the Committee has been issued and placed at the disposal of the Press.

25) Mr Gopalaswamy — one of the Members of the Committee has pleaded inability to serve on the Committee. The Madras Chamber of Commerce has suggested that a member may be chosen from the Chamber to serve on the Committee.

4.2.5.03(3)

26) In addition to the above points the following for its are pending consideration

(i) Reports of Messrs Mulk and Ramamurthy

(ii) Draft Labour Act as drafted by Mr A.V.R. and revised by Mr Subramaniam Ayer and the draft prepared by the Dr of Proposals of the Labour

Labour Comte.

5474
5503(9)

File No. of 194 | General and Revenue Secretariat

Serial No.

Labour Comte for the organization & regular staff for dealing with Labour problems.

D-4994-40

27) Subject for orders with reference to Hon. Minister's order on letter dt. 17.6.1941 from the Mysore Chamber of Commerce. May be sorted with the file at Bangalore.

24.6.41

28) Ref. Minister's orders on the letter from the Labour Chamber of Commerce.

29) The file is submitted for perusal and orders

30) Mr. Govindaraj — one of the Members nominated to represent labour interests has pleaded his inability to serve on the Committee

31) It is for orders whether another member should be nominated in his place

25/6/41

D.W.B.)

Minister Law)

32) 25/6/41

33) His letter withdrawing his previous letter tendering to serve on the Comte is placed on the file

28/6

30/6/41

SECY. DEV. DEP
25. JUN. 194
GOVT

OFFICE OF THE MINISTER FOR LAW
JUN 25 1941
No. 13265

Labour Legislation
Committee's report

eneral and Revenue Secretariat | File No. 600 of 1940. 8 | [App. F. III-2

Serial No.

945

As for personal
reckon to the
Secretary

Letter dt 31.7.41 from the Secretary Labour Legislation Committee in ~~forwarding~~ submitting the report of the Committee with a draft Labour Bill. Submits a draft O.M. to Computer Superintendent Gazette forwarding a copy of the report for publication.

Approved by Law.

O.M. No D.599 & 31.7.41 to Computer Superintendent Gazette for the report of the Committee for publication in Gazette

D.7.N. [illegible]

Fin. appl

Minister Law)

Signed 7 N is kept in file.

1/8/41

S. N. submitted.

Dewan)

OFFICE OF THE MINISTER FOR LAW
AUG 1 1941
No. 1096

NOTE—Contn. Sheet.

R.S. III—3]

Labour Commission file

ROUTINE NOTES.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

4[2] Submit file as personally constituted

Flag H is the Minute on Labour Act as revised by Justice Subramania Aiyar

Flag J is the Statement of Objects and Reasons

Cost orders on the Report on the Strike on the Bangalore Tracks

2 Letters In & Ltr is placed below for perusal

17/7/40

Minister Law)

4[1] Please issue notice concerning meeting in my Chambers at 2 P.M. on Wednesday the 16th July & say that the meetings will be continued if necessary on the 17th & 18th also, the hours being settled at the meeting on the 16th

4[2]) Second enumerated Copy of draft bill and draft rules on the bill & say that they are not the proposals of the Govt but only

Flag K's cable as instructed by the Deputy)

17/7

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

WD 05636—GPB—36,000—20-3-40

Certain prop. is here, [illegible]

this power to [illegible] discussion

A. Opp. [illegible] 30-6-44 [illegible] Shahi [illegible] extract of paragraphs 53 & 62

of the Mettha. Report [illegible]

Serial No.

DEVELOPMENT BRANCH.

Draft of the Report of the Labour Legislation Committee and of the Bill

43 Two copies of the above are submitted for perusal

44 As instructed copies have been sent to all the members of the Committee

Two copies are submitted for perusal

23/7

Minister for Labour
Chairman
Labour Legislation Committee

45 Thanks. Please renumber as soon as all members return copies signed

23/7

46 Action to be then taken

(1) To publish the Report with for public information

(2) To submit copy to His Highness for info^n (D.A.V)

(3) To send copy to Legislative Department for technical scrutiny & for taking sanct of His Highness

(4) To prepare Statement of Objects & reasons & Statement of general principles for placing before R.A. & R.C.

(5) To collect all newscuttings about this & submit suggestions to issue as emergency legislation

23/7

xx C.W. (Labour) & Legl for instructions

note. Please keep it for instructions

24/7

FINAL NOTE BY THE MINISTER FOR LAW.

...

Subject:-

Labour Legislation in Mysore.

...

47 On the 8th June 1941 the Dewan submitted for the gracious information of His Highness, the action taken to constitute a Committee, with the Minister for Law as the Chairman to consider and suggest measures necessary for dealing more effectively with the industrial disputes and for organising a Labour Department in the State.

48 The Committee held meetings from day to day from the 16th to the 18th ~~June~~ July 1941. They have now finished their labours an submitted a report together with a draft of the Labour Bill. The report is unanimous. The report with the draft Bill has bee published for general information.

49 The papers are submitted for the gracious perusal of - - His Highness.

Bangalore,
1st August 1941

MINISTER FOR LAW.

Submitted to His Highness.

I submit herewith a Final Note by the Minister for Law ~~*Member of Council*~~ *on the subject of* Labour Legislation in Mysore.

for His Highness' gracious ~~*approval.*~~ perusal.

N Madhava Rao

Dewan.

Record of Cases submitted for the Orders of His Highness the Maharaja.

No. 92
~~3.8.41~~

Subject.

Labour Legislation in Mysore.

Order.

51 [illegible]
5/8/41

51 Chief Secy

[illegible]
8/8/41

7/8/41

General and Revenue

Secretariat.

C112 15 5503(a)/Sec.

SUBJECT:—

Labour Legislation in Mysore.

files returned with His Highness' orders may, in the absence of instructions or indications to the contrary, be ordinarily circulated to the Ministers for perusal after the issue of orders.

33. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after, to the Chief Secretary for circulation to the Ministers.

34. In all other cases, the files will first be circulated to the Ministers at Headquarters and then sent to the Secretariat concerned for the issue of orders.

Circulated to Council of Ministers for perusal of His Highness' orders before/~~after~~ issue of orders. (*Vide* Rules 31, 33 and 34 of the Subsidiary Rules for the conduct of business of Council in the Manual of Council Rules and Procedure.) (*)

Chief Secretary to Government.

Through the Secretary to Government,

Devt Department. 8/8/41

667/12.8.41 Minister for Finance and Revenue. 53 12.8.41

1317/8/8/41 Minister for Law. 51 9-8-41

1202/11.8.41 Minister for Education. 55 1.8.41

899/15.8.41 Minister for Local Self-Govt. and Public Health. 57

Dev Secy with compliments

For urgent further action Prom Bn

Sec'y Law 25/c

Hm 2/15/8/41

13/8/41

NOTE.—Contn. sheet

WD 02378-GVRB-1300 11 13/8/41

Serial No.	
	Report of the Labour Legislation Com
57	Orders of the Minister for Law To send copy to Legislative Section for technical scrutiny and for taking sanction of Devaswom & H.R. and to prepare Statement of objects and reasons & Statement of general principles for placing before the B. & and L.C.
60	Two copies of the Report are placed in the file and forwarded to the Legis. Section for favour of necessary further action as ordered by the Minister
	16.1.8.41.

NOTE—Contn. Sheet.

Immediate

Serial No.

BEN. SECRETARIAT. DEVELOPMENT BRANCH.

(1) B. W. Batchelor's letter (Personal & Confidential) dated the 28th July 1941, given to me by the Minister resubmitted with copies of The Indian Trade Unions Act the Indian Trade Disputes Act & the Bombay Industrial Disputes Act

Minister Law)

MO
1/8/41

(a) The matter also ~~[illegible]~~ sent to the Legs. Dept for in connection with the Scrutiny of the Bill

(b) In 'Hon'ble' member 'Hon'ble' signifies absence of nominal qualifications such as being an employee, payment of subs etc

(c) This does not preclude payment to him by the Boroc, if he is an off. whom the Boroc wishes to pay for his services

'Hon'ble' member 'is not necessarily ~~[illegible]~~

(d) 'Hon'ble' office bearer'

Ben
24/8/41

Leg Dept)

MO
2/8/41

NOTE—Contn. Sheet.

551

Binny & Co. (Madras) Ltd.

Post Box No. 66
Madras.

18

28th July, 1941.

PERSONAL & CONFIDENTIAL

Dear Mr. Ramanathan,

After examining carefully the Draft Mysore Labour Bill as revised ~~after~~ at the recent conference, I am wondering whether there is not an inconsistency in the use of the term "Honorary" in Sections 3(17), and 7(e) with the provision for salaried officers, in Section 8(a). The meaning of "Honorary" usually connotes the possession of a title or post without performing services or without receiving benefit or reward. A good deal of discussion took place at the Conference about the admission of "Outsiders" and I remember that one of the main arguments brought forward was that they would, as salaried officials, be more interested in keeping their employees at work than if they gave their advice gratis.

I have not consulted legal opinion, but bring the matter to your notice in case a technical amendment is required.

With kind regards,

Yours sincerely,

R. Balakrishna

Rajasevasakhta A.V. Ramanathan,
Law Member,
Government of Mysore,
BANGALORE.

The Mysore Labour Bill

Serial No.

66 The following points are suggested for consideration in respect of the draft Bill

66a Clause 1 (2) Power may be taken to apply all or any of the provisions of the ~~provision~~ Bill from time to time

66b 2. Clause 3 (1) Instead of defining Association, it appears better to define "Registered Association", since references to associations prior to registration ~~are also noticed~~ appear in the Bill (e.g. 5(3) and 7) it is perhaps better "association" is not defined the words "Registered Association" are referred to constantly in the Act and this expression will in any perhaps be defined

66c 3. Clause 3(1)(b) the expression "industrial undertaking" having regard to the definition which perhaps state specifying ~~not that does practical~~ "the distinction between industrial undertakings" [illegible]

67 Reference is invited to Clause 13 (1) it is submitted that clause 13 (1) may not be held to fix ~~fact~~ to fix to refer disputes ~~not~~ settled by conciliation to arbitration. Another clause in Clause 13 (2) ~~as~~ perhaps clarify the position this ~~has~~ ~~been~~ suggested in the draft.

68 Other minor points - drafting on the Bill are all placed below.

69 The Bill may perhaps issue as an emergency Act in the first instance.

74 This was deliberately omitted in order not to need notice

NOTE—Contn. Sheet.

W

File No. Labour Bill of 194

General and Revenue Secretariat
R. A. & L. C.

Serial No.

70 Labour representatives on the Committee and outside have urged for it. The other members of the Committee have also agreed. The Bill is the usual Conciliation Bill which came into force only at the end of this year.

Sd
22/8.

Secy
RA & LC

Sd
22.8.41

Law Secy)

71 The changes suggested are suitable and the Bill may be approved.

The Bill may be passed as an emergency measure in the first instance as it will allay the labour unrest in Bangalore.

This is a commercial matter and may be disposed of. circulation

Minister for Labour)
Dewan

Hm
2
22/8/41

Sd
22/8

71

Sd
22.8.41

72 Fwd
22/8/41

78 For favour of circulation

Cl & Secy
M&C)

Hm
2
22/8/41

21

For Disposal by Circulation.

No. C.

194

GENERAL AND REVENUE SECRETARIAT

Council Matter.

Subject

THE MYSORE LABOUR BILL.

Circulated to the Council of Ministers.

By Order,

Chief Secretary to Government.

August 1941.

Minister for Finance and Revenue. (Seen)

Minister for Law. (Seen)

Minister for Education. 71 22.8.41

Minister for Local Self-Government and Public Health. 80 22.8.41

22/8/41

Denial note placed in the file

22/8

S.N. submitted

Dewan

22/8/41

Final Note by the Minister for Law.

Subject.—

THE MYSORE LABOUR BILL.

On the 1st August 1941, the report of the committee appointed to consider measures relating to labour legislation in Mysore and the draft of a Bill prepared by it were submitted for the gracious perusal of His Highness.

The members on the committee representing labour requested that in view of the general agreement in the committee, Government might be moved to enact the measure as a piece of emergency legislation excepting the provisions relating to standing orders. The other members of the Committee had no objection to this suggestion. Labourers on the Kolar Gold Field have been urging for its promulgation as an emergency Act. The Labour situation in Bangalore City is acute. There is again a lightning strike in the Bangalore Cotton Woollen & Silk Mills to-day.

It is considered desirable to promulgate the Bill as an emergency measure at once as prayed for by the Labour representatives of the committee and agreed to by the others. The Bill will thereafter be placed before the Representative Assembly in October and introduced in the next session of the Legislative Council.

The Dewan and other Ministers are agreeable to this proposal and I solicit the gracious sanction of His Highness to the proposal.

Bangalore,
22nd August 1941.

MINISTER FOR LAW.

Submitted to His Highness.

86 I submit herewith a Final Note by the Minister for Law on the subject of the proposal to promulgate the Mysore Labour Bill as an emergency measure and thereafter to place it before the Representative Assembly and the Legislative Council, for His Highness's gracious approval.

M. Visvesvaraya

Bangalore,
22nd August 1941.

D E W A N.

The Mysore Labour (Emergency) Act 1941

Serial No.

1 Issued RL 460. Legs 12.41.1 dated 26.8.41 directing publication of the Act as Act XX of 1941 in a Gazette Extraordinary.

2 Issued RL 463. d 28.8.41. notifying that certain provisions thereof come into force from 28th instant.

(10) As instructed by the Law Minister, the Act was published as a Gazette Extraordinary on the 26th instant.

91) The notification bringing into force all the provisions of the Act (except section 9 and Schedule I) has also been issued as instructed and will appear in today's Gazette.

92) The Law Minister was also pleased to direct that notifications under sections 4 and 6 appointing the Labour Commissioner, Assistant Commissioner of Labour and Registrar of Associations might be issued.

93) A draft in this behalf is put up. After issue the file will be sent to the CR for circulation and thereafter to the Dev. Dept for framing rules under the Act.

Sd
28/8/41
Law Secy.

94) Dev. Secy
W/C.

Hm
2
28/8/41

WD
28/8/41

Issued notification No RL 470. Legs 12-41-3 dated 28th August 1941

NOTE—Contn. Sheet.

The Mysore Labour Act (Amendment)

File No. of 194

General and Revenue Secretariat
R. A. & L. C.

Serial No.

(5) CB for circulating the file to Ministry minute para 89 and through Ministry the file be over to the framing of rules under the Act.

eneral and Revenue

Secretariat.

C 173

SUBJECT:

The Mysore Labour (Emergency) Act.

31. All urgent or confidential s returned with His Highness' orders may, in the absence of instructions or indications to the contrary, be ordinarily circulated to the Ministers for perusal after the issue of orders.

33. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after, to the Chief Secretary for circulation to the Ministers.

34. In all other cases, the files will first be circulated to the Ministers at Headquarters and then sent to the Secretariat concerned for the issue of orders.

Circulated to Council of Ministers for perusal of His Highness' orders ~~before~~/after issue of orders. (*Vide* Rules 31, 33 and 34 of the Subsidiary Rules for the conduct of business of Council in the Manual of Council Rules and Procedure.) (*)

Chief Secretary to Government.

Through the Secretary to Government,

.....Department.

1060/29.8.41 Minister for Finance and Revenue. 29.8.41

Minister for Law. (Seen)

497/29.8.41 Minister for Education. 29 8.41

1241/30.8.41 Minister for Local Self-Govt. and Public Health. 31.8.41

Law Secy. with compliments.

NOTE.—Contn. sheet

WD 02878—GPB—300—26-6-41

1.9.41

2/9/41

29.41

The Mysore Labour (Emergency) Act, 1941 316

General and Revenue Secretariat R. A. & L. C. | File No. of 194 | App F. III-2

Serial No.

96) The file will be sent to the Dev. Dept. to note that the Act has been passed as an Emergency Act so that any further action necessary thereafter may be taken by it and to return the file immediately so that action may be taken here to place the Bill before the Rot. in October 1941

2.9.41

Secy (R&R&C)

2.9.41

Asst Secy Dev Dept

Sir, It is understood that action is being taken in the R.A.D. under instructions from the Law Minister to frame Rules under the Act. As action on other powers has already been taken before R.A.D. no further action appears to be necessary here for the present. May this be returned to the R.A.D.

3.9.41

R.A.)

5.9.41

Action is being taken separately to frame rules under the Act

5.9.41

The Mysore Labour (Emergency) Act

File No D.226 of 194

General and Revenue Secretariat
R. A. & L. C.

Serial No.

The Bill will be placed before the R.A. in October
A Statement of general principles is put up for accompanying the Bill.

15.9.41
(Secy RA & Re)

BKR 16.9.41
(Law Secy)

(02) The statement of general principles of the Bill may be approved
D. 7. N. submitted

(03) Min. for Law)
16/9/41.

BKR 16.9.41

16-9-41

Hm 17.9.41

(04) A copy of the statement as revised is put up
If approved the statement will be included in the Agenda for the RC

17.9.41

(05) Secy RA & Re,
BKR 18.9.41
(06) Law Secy)

Hm 18/9/41

BKR 18.9.41

Papers relating to this Labour Emergency Act are also placed with the file 18
The Bill taken by Dev Bd and returned 11.9.41

SECY. LAW DEPT. 16 SEP. 1941 GOVT OF MYSORE

OFFICE OF THE MINISTER FOR LAW
SEP 17 1941
No. 2691

Re-type the corrected Statement ~~18.9.41~~ Hm
17-9.

Submitted
The Statement as Corrected will be included in the Agenda
9.41

Mysore Labour Bill

General and Revenue Secretariat
R. A. & L. C.

File No. of 194 269 App. F. III-2

Serial No.

The Bill is ready for the Rect. It is to be as soon as Law Sec is to be in charge of the Bill in the RA.

27.9.41

Sec cy
RA (Sec)

108) The Development Secretary may be in charge.

BXR
27 9 41

SECY. LAW DEPT.
28 SEP. 1941
GOVT OF MYSORE

109) Law Secy)

Hm
28/9/41

BXR
28.9.41

110) Dev. Secy)

28.9.41

1/10/41

111) A copy of the proceedings of the Representative Assembly in regard to the Mysore Labour Bill is put up.

112) The general principles of the Bill were approved by the Assembly subject to two amendments which were carrie The Bill has now to be introduced in the Legislative Council and if approved publication of the Bill will be made under rule 36 of the Mysore Legislative Rules 1940, in which case the motion for leave to introduce can be dispensed with.

NOTE—Contn. Sheet.

No.

113) In regard to the amendments which were carried in Assembly, the voting thereon indicate that in neither of the two cases was there a majority of not less than two-thirds of the total number of members of the Assembly. Section 26(2) of the Government of Mysore Act will not therefore necessitate that the amendments should be embodied in the Bill before introduction in the Legislative Council unless Government give reasons for not doing so.

114 The first amendment that was carried relates to the appointment of an Industrial Court to decide appeals from orders passed by the Registrar and from the decisions of the Labour Commissioner. During the discussions, the members who sponsored the amendment stated that they would have no objection if the Court of arbitration already provided for in the Bill were invested with the powers which the Industrial Court had under the proposed amendment.

115) It may be stated that under the Bill the duties of Registrar are only three; (1) to register associations, (2) to conciliate in cases of disagreement as Chief Conciliator and (3) to declare a strike or lock-out as illegal. In regard to (1) there might perhaps be no objection to provide for appeals.

116) As regards conciliation, where a settlement is not reached during conciliation proceedings or where the

Serial No.

parties do not agree to arbitration, the Bill appears to contemplate that the parties should thereafter be allowed to take whatever steps they may deem fit. Under the proposed amendment if this matter has to go before a court of appeal the question arises, what effect the decision of the court of appeal should have. If such decision should have the same result as the report of a conciliator, it may perhaps be unnecessary that such an ineffective power of appeal should be given. On the other hand if the decision of the court of appeal should be made binding, the principle of compulsory arbitration will have been brought into the Bill.

117) In regard to the declaration of strikes and lock-outs as illegal by the Registrar, it may be mentioned that there will be considerable delay if his decision should be subject to a right of appeal. And, it appears to be one of those cases where time is of the essence of the matter so that the employers or the employees may know as ~~far~~ early? as possible whether a strike or lock-out, as the case may be, has been declared illegal. If the Registrar has declared a strike or lock-out to be illegal though it may not be so under the other provisions of the Bill, there is always the remedy open under the general law to plead that the decision was wrong as a good defence in any prosecution that may be undertaken. It may therefore be inexpedient to give the

Serial No.

proposed court powers to hear appeals against such declarations.

(18) The Commissioner's duties under the Bill are also three-fold; (1) settlement of standing orders, (2) settlement of changes in standing orders and (3) in case of disagreement, the duty to report to the Registrar. In the first case the Commissioner can no doubt settle the standing orders. But under the Bill, either party can agitate for a change and thereupon the other provisions for conciliation and arbitration come into operation. In the two other cases it is always open to a party not to agree ~~to~~ and thereupon, conciliation proceedings have got to be automatically initiated. Then there does not therefore appear to be any need to provide for an appeal since it is open to the parties at any stage to disagree with the other party and thereby ~~bring about~~ initiate conciliation

An appeal may be allowed
14/11

(19) The question, therefore, whether the amendment should be incorporated in the Bill and if so, the matters regarding which a right of appeal should be provided for is for orders. It is assumed that the present Court of arbitration will be given these powers.

(20) The other amendment carried was that the Bill should be amended so as to recognise federations of associations and an All-Mysore Federation of Associations. As observed by the President of the Assembly

erial No.

during the discussions on this question, this will lead to the implication that labourers in a factory, say at Davangere, would be entitled to go on strike if there was trouble of any kind in a factory at Bangalore. This question may probably be considered after the Act has worked for some time.

(21) It was ordered in another connection that the age of membership as fixed in the rules ~~should~~ requires modification and the age might be fixed at 15 instead of 18. This would necessitate the addition of a new provision in the Bill itself and the draft of a clause is proposed as follows:-

~~19~~ "Any person who has attained the age of 15 years may be a member of a registered association subject to any rules of the association to the contrary and may subject as aforesaid, enjoy all the rights of a member and execute all instruments and give all acquittances necessary to be executed or given under the rules;

Provided that no person who has not attained the the age of 15 (18) years shall be an officer of any such registered association."

(22) Section 25 of the Government of Mysore Act requires that no Bill should be introduced in the Legislative Council unless the Bill shall have been first placed before the Representative Assembly. This raises the question whether it is open to Government to effect any

Mysore Labour Bill,

File No. 26 9/41 of 194

General and Revenue Secretariat
R. A. & L. C.

Serial No.

changes in the Bill as placed before the Representative Assembly and introduce the changed Bill in the Legislative Council. Section 25 appears to negative any such power except perhaps the power to incorporate amendments passed in the Assembly. Other changes, if any, it would appear, can be brought up only as motions to amend the Bill. If approved, a motion to incorporate the new clause will be included in the agenda for the Legislative Council.

3-11-41

SECY. LAW DEPT. 3 NOV. 1941. GOVT OF MYSORE

Law Secy)

123) An appeal may be provided for against the orders of the Registrar with respect to the registration of the association. The other amendments need not be accepted.

(1) I agree. The appellate authority will be the Court of Arbitration. No. 2 Pr 14/11 UO 2

124) The amendment relating to the federation of associations need not also be accepted.

I agree. Pr 7/11 UO

SECY. LAW DEPT. 4. NOV. 1941 GOVT OF MYSORE

The clause relating to fixing minimum of age limit at 15 may be considered by the Select Committee

Yes UO Pr 7/11

125) The Bill may be published under R. 36 of the Leg. Rules

Yes

Minister for Law)

Hm 4/11/41

Secy 4-11-41

OFFICE OF THE MINISTER FOR LAW NOV. 5 1941 No. 4321

Thro' Sec Leg)

127) There is some confusion in the above notes. Please bring up on 12/11

(1) UO 5/11/41

APB Bring for personal discussion with the Law Minister

Hm 10-11-41

Hm 5-11-41

Inspec Labour Bill

General and Revenue Secretariat	File No. of 194	[App. F. III-2
Serial No.	(28) revised draft approved. The draft Bill and Statement of O & R may be published. Sd/- 14-11-44 WQ 14/11/44	

NOTE—Contn. Sheet

File No. of 194

General and Revenue Secretariat

Serial No.

Labour (Emergency) Act, 1941 — Amendments to the

General and Revenue Secretariat | File No. 184 | of 194 | [App. F. III—2

Serial No.

Letter No A 163/1 dated the 29th September 1941 from M/s A Sivan & Co., Ltd., Managing Agents, the Mysore Spinning and Manufacturing Co., Ltd., and Minerva Mills Ltd., Bangalore recommending certain amendments to the Mysore Labour Emergency Act

Letter No - dated the 30th Sept. 1941 from the Secretary, the K.G.F. Mining Board Bangalore submitting objections etc to the Labour Act,

Vide dated 26th Sept 41 from Mr. A. Nijbell, Director, the Bangalore Woollen etc. Mills Co., Ltd, suggesting certain amendments to the Labour Act.

129) in the favour of perusal.

Sd. V.V.A.
2.10.41

Minister, Law)

Please send extract of portions relating to the Act to Legislative Br for putting up with the Bill for orders"

Sd. 1.V
4/

Sd. V.V.A
4/10

Subs.

The above papers and the extract referred to in Para 2) above are will be sent to the Legislative Branch.

Sd
6/10 (To the Legislative Br)

Sd
9/10/41

Sd
10/10/41

NOTE—Contn. Sheet.

WD 03967—GPB—5,000—30-8-41

130) The Mysore Spinning and Manufacturing Co, the Bangalore Woollen Cotton and Silk Mills Co, and K.G.F. Mining Board have sent identical suggestions in regard to most matters.

They are

1. The intention that there should be only one Association of employees in an industrial undertaking should be made explicit.

The wording of clause 2 (1), it is submitted makes it sufficiently clear

2. The reference to arbitration by Government after ~~the~~ receipt of an application for this purpose should be within a week of the receipt.

Since ~~the~~ it is the Government who have to refer to arbitration, they may be expected to be vigilant and no such restriction may perhaps be necessary

3. As set Clauses 23 (3) and (4) stand, when a matter goes on appeal, and it ~~may~~ takes a long time before the matter is settled, an employer may have to pay the dismissed employee wages throughout the period. They suggest therefore that a clause on the lines of section 64 (1) of the Bombay Act may be substituted.

131) Under the Bombay Act also 64 (3) it is open to a Court to direct that an employer

See also notes 131/11

Serial No.

should pay the employee wages due for the period he is kept out of employment

(132) Under our Bill however the Court has no option but to direct that wages for this period should be paid to the dismissed employee (24(3).

With regard to cases when an appeal is preferred and is pending for some time, this matter perhaps requires consideration

No change needed here; the Court cannot change the Bill materially from that was placed before the H.A.
14/11

(133) 4. In clause 27, after the word "illegal" the words "in accordance with the provisions of the Act" should be added.

(134) The idea is clear that illegal means illegal under the provisions of the Act and this change is perhaps unnecessary as superfluous.

(135) 5. In clause 32 for the word "constituted" the word "registered" should be substituted. This may be accepted

Change to "No Association of three registered"

(136) In a [illegible] other, our two other suggestions have been made by the K. G. J. Sanitary Board

Unnecessary by verbal
14/11

(137) 1. In clause 8(c) certain words are not clear It is submitted that the wording of clause 8(c) is identical with the British Act of 1926 so change appears necessary

Consider these words, as they make no meaning in our Act. ~~that~~ Under the Act, a Trade union includes an Employer's Assoc.
14/11

2. Declaration of Registrar declaring a strike or lockout as illegal should be subject to

NOTE—Contd. Sheet.

appeal to Court of arbitration or ordinary courts. This question has been considered in the Draft put up for orders separately.

(38) Mr S.P. Samarasinghe advocate has sent certain suggestions

1. A small undertaking should be defined. This has been considered in connection with the Emergency Act and it has been decided that it is not necessary

2. To form a registered Association not less than 50% of the total no. of employees should become members. At this stage it may not be expedient to restrict the right of employees to form registered associations. Since there will be only one Association for each undertaking, such a limitation is perhaps unnecessary.

3. Outside interference should be avoided only officers of an undertaking should be admitted as Honorary members. This question of Honorary membership was considered in the Committee who have recommended that 2 of members may be outsiders

4. Employees of one industry should not be office bearers in an association of a similar industry.

The choice of selection might perhaps be left

Labour Bill – suggestions re

General and Revenue Secretariat
R. A. & L. C.

File No. 398/M of 194

App. F. III-2

Serial No.

to the Association Concerned to select the Officers.

(139) These suggestions are for Consideration.

10 11 41

Law Secy)

(140) The above suggestions may be approved.

Yes.

Minister) to have this Dev. Secy 11.11

Hm 11/11/41.

Questions may however be considered during the Select Comm^ee stage.

12/11/41

(142) Please see orders above

14/11

14/11/41

Secy

21/11

The Law ... was approved of the Bill and the Statement and minuted that they may be published (para 128 above) Reference para 143 also

Its publication under rule 36 is for orders

21.11.41

Law Secy)

May be published.

Dewan)

Hm 24.11.41

25/11/41

Hm 25.11.41.

NOTE—Contn. Sheet.

MWDS

SECTT. DEPT. 10 NOV. 1941 GOVT OF MYSORE

GOVT OF MYSORE 11 NOV. 1941

NOV 12 1941 462

24 NOV. 1941 NO. 438

File No. of 194

General and Revenue Secretariat
G. A. & L. C.

Serial No.

Please take early act to have the Bill and the Kannada translation published. The Corrections made in the Bill and the St. of Objects & Reasons may be kept in view

27.11.41

Sabha with a draft notification for appr.

27.11.41

DOR
27/11/41

BDN
27/11

Printed copy will be got from the Press & sent to the translator's office for translating the same into Kannada
DOR 4/12. Early

The Computer, Mysore Gazette
Notn. No RL 1051 LC dated 28.11.41
Publishes the Bill under rule 36 of the Mysore Legislative Rules, 1940.

This Bill would perhaps req. Consideration by a Select Committee. But the Bill has to be passed at one session and the Select Committee will have to be directed to report within a specified time.

In this connection reference is invited to Standing Orders 37 and 39. At least one week has to elapse between the Presentation of the Report of the S.C. and the taking of it into Consideration. At least 2 days notice of amendments has to be given under S.O. 39.

The power vested in the President under the rules to suspend them to these S.O's will have to be invoked.

Mysore Labour Bill

General and Revenue Secretariat
R. A. & L. C.

File No. 78/Ne of 194

App. F. III-2

Serial No.

The following Motions are Mysore suggested:—

To be moved on 15th Dec. 1941

1. Motion that the Bill published under rule 36 of the Mysore Legislative Rules, be referred to a Select Committee consisting of ——— with directions to make the report by Wednesday the 17th December 1941

Move Minister for Law

Seconds Development Secy.

Report presented on Wednesday 17th Dec.

2. The report of the Select Committee will be presented on Wednesday the 17th December 1941 by the Minister for Law.

To be moved on ~~Wednesday~~ Thursday 18th Dec. 1941

3. Motion that ~~the~~ Standing order 37 of the Legislative Council Standing orders be suspended and the Bill as reported by the Select Committee be taken consideration

Move Minister for Law

Seconds Dev. Secy

any member move an amendment under S.O. 39 would be the time for moving to suspend that for case an member objects on the ground of want of time

Vd on Thursday 18th

Motion that the Bill be passed

Move Minister for Law.

Second Dev Secy

Law Secy) 28/11/41.

GOVT. LAW DEPT
28 NOV. 1941
GOVT OF MYSORE

NOTE—Contn. Sheet.

File No. of 194

General and Revenue Secretariat
R. A. & L. C.

Serial No.

OFFICE OF THE MINISTER FOR LAW
NOV 28 1941
No 5343

May be approved

(Finance)
for Law.)
(thro' Dev. Secy.)

28.11.41.
28/11/41

28/11/41
29.11.41

29.11.41

Please take action to include motions in agenda
29.11.41

Rec'd at 5 P.M.
28 NOV. 1941

From
The Bangalore Water-Cost. Cotton Mills Co. Ltd.
forwards a certain amendment proposed was moved at the ensuing session of the Legislative Council.

Serial No.

The Binny Mills have sent a note on certain amendments which are proposed to be moved in the Legislative Council on the 15th instant.

1. Clause 22:- The amendment proposed appears to be unnecessary. The Code of Criminal Procedure applies to such proceedings and under section 200 of the Code a magistrate has to examine a complainant on oath and may do so in the case of a written complaint. Section 203 also provides that a magistrate may dismiss a complaint if he considers there is no sufficient ground for proceeding. There is also the additional safeguard provided in section 250 which empowers a magistrate to direct the payment of compensation and in default to impose a sentence of imprisonment where a complainant files a false or vexatious complaint.

2. Clause 23:- This question has been considered in connection with a similar reference received some time ago and the notes at para 132 above are for perusal.

The addition of the words suggested in this proposed amendment may not carry out the intentions of the mover as there may be more than one judgment in any case dependant on whether the matter goes up in appeal or not.

Clause 25:- The proposed clause makes no amendment to the provisions of Clause 25; but purports to recast it so as to avoid so-called misunderstandings or

File No. 328/41 of 19

General and Revenue Secretariat
R. A. & L. C.

Serial No.

misconstructions. It may however be stated that even in the Bombay Act of 1938 no such distinction between a fundamental ground of illegality and one dependant on the time factor appears to have been made or recognised (Section 62).

Clauses 27 and 28:- The interpretation put upon these clauses by the Mills does not appear to be correct It appears to be quite open to a court to question the legality of the Registrar's findings particularly as that finding is the very foundation for the illegality of a strike or lock-out Mention has also to be made of the specific definition as it were of an illegal strike or a lock-out given in Clauses 25 and 26. This amendment therefore appears to be unnecessary.

5. The proposed new clause:- Such a provision may not perhaps be necessary in the Act and if it is found that such a provision has to be embodied in some form or other it may perhaps find a place in the rules. Normally it is expected that the Registrar will exercise as much vigilance in regard to this matter as the employer or the employees.

10.12.41

Secy
RASKE

10-12-41

Law Secy

SECY. LAW DEPT.
10 DEC. 1941
GOVT OF MYSORE

General and Revenue Secretariat
R. A. & L. C.

File No. 398/NL ~~of 194~~

[App. F. III-2

Serial No.

There is really no necessity for the amendments suggested by the Mills.

May be filed.

Minister for Law.

Hm
10.12.41.

BKR
10-12-44

DEC 11 1941
No. 5883

I have heard what Mr Wisbeth had to say & explained the position to him.

Make next mistake any further action in the Law Secy If any amendments are req'd in L.C. Office, they can be dealt with.

Hm
11-12-44

Hm
11/12/41.

BKR
11-12-44

File No. of 194

General and Revenue Secretariat
R. A. & L. C.

Serial No.

Suggestions re: certain of the provisions of Mysore Labour (Emergency) Act, 1941, for the consideration of Gov't

General and Revenue Secretariat
R. A. & L. C.

File No. of 194 App. F. III-2

489/RL

Serial No.

From
The Secretary, Mysore Chamber of Commerce Bangalore
Letter No 1632 dated 5th Dec 1941
Suggesting a few alterations in certain of the provisions of the Mysore Labour (Emergency) Act, 1941.

The papers are submitted for perusal

8-12-41

Notice has also been given by a Member of the Leg Council Mr G Benn White of a number of amendments which he proposes to move. As they cover the same ground on which the letter from the Chamber of Commerce is based they will be considered together

In a letter received from the Binny Mills many of their amendments were raised and a note has been put up on them

The new points which now arise for consideration for the first time are contained here.

Mr. Benn-White's amendment.

Cl. 2 (1) only one association of employees to be constituted within an industrial undertaking

It is submitted that 2 (1) as it stands is clear enough the entire scheme of the Bill proceeds on this assumption and

NOTE—Contn. Sheet.

Serial No.

appears to be no authority whatever.

2. Cl ~~13(3)~~ 3(8): "employee" should not include clerical staff. The reason for such exclusion is not clear. The principle of the Bill is to foster good will between employers and employees and clerical staff should also be included in any Bill intended to deal with them. — Chamber of Commerce suggestion

3. Cl 9(1): The term "workman" be defined. It merely means an employee and no new definition appears necessary. In the Select Committee this word may perhaps be changed to "employee". — Chamber of Commerce suggestion

4. Cl 13(-) A time limit should be imposed for reference to a Court of Arbitration. As the Chief Conciliator and the Government are as anxious to promote settlements as the parties, such an amendment is perhaps unnecessary. — Mr. Benn Wilson's amendment

5. Cl 29 (new) In regard to a right of appeal against a Registrar's declaration.

The commencement of illegality of a strike or lockout cannot be made to await the result of an appeal. As the trying Court and the appellate — Mr. Benn Wilson's amendment

Final Note by the Minister for Law.

Subject.—

Promulgation of the Mysore Labour Bill.

On the 24th of August 1941, the gracious sanction of His Highness was accorded to the proposal to promulgate the Mysore Labour Bill as an Emergency Measure in the first instance and to place it thereafter before the Representative Assembly in October and to introduce it in the next session of the Legislative Council. The measure was accordingly published on the 26th of August 1941 as Act No.XXII of 1941. A statement of general principles of the Bill together with the Bill was placed before the Representative Assembly in October and was passed by it subject to two amendments moved in that House. The first of them referred to the constitution of an Industrial Court to decide appeals from orders passed by the Registrar and the Commissioner of Labour and was carried by 123 votes against 35 votes, 105 members remaining neutral. The second amendment related to the recognition of federations of associations and an All Mysore Confederation of Associations and was carried by a majority of 124 against 117.

Neither of the amendments was passed by a majority of not less than two-thirds of the total number of members of the Assembly. It was not therefore compulsory under section 22 of the Government of Mysore Act to incorporate the amendments in the Bill before introduction in the Legislative Council. However, provision for an appeal against the order of settlement of the first standing orders by the Commissioner to the Court of Arbitration was added to the Bill before its introduction in the Legislative Council

The Bill was introduced in the Legislative Council on the 15th of December and was referred by the Council on the

the 16th of December to a Select Committee. The report of the Select Committee, to which has been appended a minute of dissent signed by 4 members of the Select Committee, was presented to the House on the 19th of December. The Bill as amended by the Select Committee was considered on the 22nd, 23rd and 24th of December. Notice had been given of a number of amendments by the members of the Council. Some had been accepted by the Select Committee and incorporated in the Bill. Many of the others were considered by the Council, while some were withdrawn by leave of the House. Three amendments to the Bill were accepted by the Government and passed by the Council, and the rest were negatived. The Bill was finally passed on the 24th of December.

A copy of the Bill as finally passed by the Council and signed by the President under Standing Order 44 of the Mysore Legislative Council Standing Orders is submitted herewith.

I now solicit the gracious sanction of His Highness to promulgate the Bill into Law.

Bangalore,
3rd January 1942.

MINISTER FOR LAW.

Submitted to His Highness.

I submit herewith a Final Note by the Minister for Law on the subject of the promulgation into law of the Mysore Labour Bill, for His Highness's gracious approval.

N Madhava Rao

DEWAN.

Camp Trivandrum,)
7th January 1942.)

Record of Cases submitted for the Orders of His Highness the Maharaja.

No. 529
7.1.42

Subject.

Promulgation into law of the Mysore Labour Bill.

Order.

10/1/42

General and Revenue

Secretariat.

SUBJECT:-

Promulgation into law of the Mysore
ıbour Bill.

(*)

31. All urgent or confidential files returned with His Highness' orders may, in the absence of instructions or indications to the contrary, be ordinarily circulated to the Ministers for perusal after the issue of orders.

33. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after, to the Chief Secretary for circulation to the Ministers.

34. In all other cases, the files will first be circulated to the Ministers at Headquarters and then sent to the Secretariat concerned for the issue of orders.

Circulated to Council of Ministers for perusal of His Highness' orders before/after issue of orders. (*Vide* Rules 31, 33 and 34 of the Subsidiary Rules for the conduct of business of Council in the Manual of Council Rules and Procedure.) (*)

Chief Secretary to Government.

Through the Secretary to Government,

Law Department.

17.1.42

4014 20.1.42 Minister for Finance and Revenue. 22.1.

7373 19.1.42 Minister for Law. 20.1.42

3980 22.1.42 Minister for Education. 23.1.42

Minister for Local Self-Govt. and Public Health. (on deputation)

Law Secy. with compliments.

23/1/42

23.1.4

26.1.42

NOTE.—Contn. sheet

The Mysore Labour Act

General and Revenue Secretariat
R. A. & L. C.

Legis File No. 39 of 1941 (1,891) (796/M)

App. F. III-2

Serial No.

The gracious assent of His Highness the Maharaja has been accorded on the 10th January 1942 to promulgate the Bill into Law

Draft G.O. directing publication of the Act as Act No XIII of 1942 is put up

27.1.42

Secy
R.A. & L.C.

BKR
27.1.42

Law Secy

27.1.42

Dstne
BKR
27.1.42

L.C. Office
File returned
To the Legis Section
22/6/42

Issued No R.L. 1323 Legis 39-41-1 dated 27.1. to the Compi Mysore Gazette

Well then we got recorded now at least by the Secy, R.A. & L.C.

NOTE—Contn. Sheet.

Appendix F.G—1]

SUBJECT.....

.....

.....

Diary No. of letter replied to.....

General and Revenue Secretariat

( )

the *19*

Date of issue..... 16.5.41.....

Signed by .....

Vide G.O. 5416-40-2 for notes)

Ex. as drafted by Rajamanapadu with Ramanaiah, Labour commr.

List of enclosures.....

Copied by .....

Examined by .....

Section

File No.

Serial No.

No. r-6046-40

To

Dear Sir.

I am directed to enclose herewith a copy of the draft of the Madras Labour Act and to request that you favour Govt. with your suggestions thereon at as early a date.

Yours.

Sd/ George Mathew

C. Sankaranarayana Ayyar, B.A., B.L.

Judge, Hyd. Court,

Bangalore.

HIGH COURT OF MYSORE

BANGALORE

Dated 21st May 1941.

SECY. DEV. DEPT. 21. MAY 1941 MYSORE

SECRETARIAT 22 MAY 1941 4969 DEVELOPMENT

My dear Venkatesa Iyengar

I am in receipt of your D.O. No.D.6046/40-41 dated 16th May 1941 asking for my suggestions in respect of the draft Mysore Labour Act. I have enclosed herein a note containing my opinion and suggestions on the draft Bill and a copy of the Bill as revised by me with some amendments and additional clauses.

I have also enclosed a memo indicating the grouping of the several clauses in proper sequence and under several chapters.

Yours sincerely,

C. Subramanyaiyer

To

M. Venkatesa Iyengar, Esq., M.A.,
Secretary to Government,
Development Department,
BANGALORE.

Draft V/ MYSORE LABOUR ~~ACT.~~ Bill (Revised Bill) a

WHEREAS it is expedient to make provision for the promotion of peaceful and amicable settlement of industrial disputes by conciliation and arbitration and the organisation of industrial employees into associations ~~on proper lines~~ to secure their welfare, and for certain other purposes, hereinafter provided, it is hereby enacted as follows:-

Short title.

1. (1). This Act may be called the Mysore Labour Act, 1941.

Commencement.

(2). It shall come into force ~~at once~~ from

Extent and application.

(3). It extends to the whole of Mysore.

(4). It shall apply to all industrial undertakings whether owned by a private ~~persons~~ person or by a Government or local authority.

Recognition of association of employees.

2. (1). The right of employees in an industrial undertaking to combine ~~themselves~~ into an association for the promotion of their common interests is hereby recognised and declared.

(2). The Government may on the recommendation of the Commissioner of Labour extend this right to employees in small industrial ~~establishments of a similar~~ undertakings engaged in work of same nature in any local area or to employees in industrial ~~establishments of a similar~~ undertakings engaged in work of same nature located in different areas.

Definitions.

3. In this Act unless there is anything repugnant in the subject or context--

(1). "Award" means any interim or final determination ~~by a Court of~~ in an Arbitration proceeding under this Act.

(2). "Board" means the Board of Conciliation appointed under this Act.

(3). "Change" means a change in any industrial matter.

(4). ~~"Commissioner of Labour" includes an Assistant Commissioner of Labour.~~

(5). "Conciliation proceeding" means any proceeding held by a Conciliator or the Board under this Act.

(6). "Conciliator" means any Conciliator appointed under this Act and includes the Chief Conciliator or a Special Conciliator.

(7). "Court" means a Court of Arbitration appointed under this Act.

(8). "Employee" means any person employed to do any skilled or unskilled manual or clerical work for hire or reward in any industry and includes an employee discharged on account of ~~any~~ such dispute relating to a change in respect of which a notice is given under section 8 whether before or after the discharge.

(9). "Employer" includes--

(a) any agent of an employer;

(b) where an industry is conducted or carried on by a department of the Government, the authority prescribed in that behalf, and where no such authority has been prescribed, the head of such department;

(c) where an industry is conducted or carried on by or on behalf of a local authority, the Chief Executive Officer of such authority; or

(d) where the owner of any industry in the course of or for the purpose of conducting such industry contracts with any other person for the execution by or under the contractor of the whole or any part of any work which is ordinarily part of the said industry, the owner of such industry.

(10). "Industrial dispute" means any dispute or difference between an employer and employee or employees, which is connected with any industrial matter.

(11). "Industrial matter" means any matter relating to work, pay, wages, reward, hours, privileges, rights or duties of employers or employees, or the mode, terms and conditions of employment or non-employment and includes--

(a) all matters pertaining to the relationship between employers and employees, or to the dismissal or non-employment of any person;

(b) all matters as to the demarcation of functions of any employees or classes of employees;

(c) all matters pertaining to any right or claim under or in respect of or concerning an agreement, ~~submission~~ settlement, or award made under this Act a n d

(d) all questions of what is fair and right in relation to any industrial matter having regard to the interest of the person immediately concerned and of the community as a whole.

~~Add a definition clause.~~ Industrial undertakings means a unit of industry under ~~the~~ one ~~same~~ employer in the same city, town or village

(12). "Industry" includes--

(a) any business, trade, manufacture or undertaking or calling of employers and

(b) any calling, service, employment, handicraft or industrial occupation or avocation of employees.

(13). "Local area" means any area notified as such by the Government.

(14). "Lock-out" means the closing of a place or part of a place of employment or the total or partial suspension of work by an employer or the total or partial refusal by an employer to continue to employ persons employed by him, where such closing, suspension or refusal occurs in consequence of an industrial dispute and is intended for the purpose of compelling those persons or of aiding another employer in compelling persons employed by him to accept any term or condition of or affecting employment.

(15). "Member" means a person who is an ordinary member of an association and who ~~has been paying~~ a subscription of not less than one anna per month and the term "membership" shall be construed accordingly, and shall include an honorary member holding an office in the Association.

(16). "Prescribed" means prescribed by rules made under this Act.

(17). "Registered agreement" means an agreement registered under section 8.

(18). ~~"Registered association" or~~ "Association" means an association of employees registered under this Act.

(19). "Registrar" means the Registrar of Associations appointed under this Act.

(20). "Schedule" means schedule appended to this Act.

(21). "Settlement" means a settlement arrived at during the course of a conciliation proceeding.

(22). "Strike" means a total or partial cessation of work by employees employed in an industry acting in combination

combination or a concerted refusal or a refusal - under a common understanding of employees to continue to work or to accept work where such cessation or refusal is in consequence of an industrial dispute in any industry. It is intended for the purpose of compelling ~~the~~ any employer to accept any term or condition of or affecting employment

Commissioner of Labour: his powers.

4. (1). The Government shall appoint a person as Commissioner of Labour whose jurisdiction shall extend throughout the State.

Another Off (Ranking work)

(2). The Government may also appoint for any local area or otherwise one or more ~~Assistant Commissioners of Labour~~ Asst Comrs Offs who shall exercise such of the - powers and perform such of the duties of the ~~Commissioner~~ as may be delegated by him, and subject to his control and supervision.

(3). For the purpose of exercising his powers and performing his duties, the ~~Commissioner~~ Comr or Asst Comrs may, after giving reasonable notice, enter any place used for the purpose of any industry or as the office of any Association and shall be entitled to call for and inspect all relevant documents which are necessary for the due ~~enforcement of the provisions of this Act~~ due discharge of his duties & powers under this Act. The - ~~Commissioner~~ Off may for the same purpose enter, after - giving reasonable notice, any premises provided by an employer for the purpose of residence of his employees.

(4). All particulars contained in or information obtained from any document inspected or called for under sub-section (3) shall, if the person in whose - possession the document was so required, be treated as confidential.

(5). The ~~Commissioner~~ ~~Labour Off~~ Comr shall be entitled to ~~have access to~~ appear in any proceeding under the Act ~~and to - represent the interests of labour and the general public.~~ and also to attend meetings of ~~Labour~~ Associations

Re proposed 18/7

Commissioner's duties.

5. It shall be the duty of the ~~Commissioner~~ ~~Labour Off~~ Comr ~~Registrar~~

to help ~~the~~ organising ~~of~~ associations of employees in each industrial undertaking employing not less than 100 workmen, and to assist and guide the officers of such associations in the discharge of their duties and in developing the work of the associations.

Registrar of Associations.

6. (1). The ~~Commissioner of Labour shall be ex officio~~ Registrar of Associations of Employees in the State.

(2). He shall maintain a Register of Associations and such other Registers as may be prescribed.

(3). On receipt of an application from an association for registration and on payment of the prescribed fee, the Registrar shall, if he is satisfied that the Association fulfils the prescribed conditions, register the association and issue a certificate of registration.

(4). Every such Registered Association shall be a Body Corporate by the name under which it has been registered and shall have perpetual succession and a common seal with power to acquire and hold both movable and immovable property and to contract and shall by the said name sue and be sued.

Standing orders regarding industrial matters.

7. (1). Within ~~two~~ months after the commencement of the Act, the employer in respect of every industrial undertaking employing not less than 100 workmen shall furnish the Commissioner with a statement of standing orders ~~in his concern~~ in respect of matters specified in Schedule I of this Act and simultaneously furnish a copy of the same in English and Kannada to the Association of Employees in his concern.

(2).

The Association of Employees shall submit to the Comr within 45 days on receipt any points objected to by them as

(2). The Commissioner shall ~~within a month~~ the receipt ~~of the receipt of such statement~~ hold a summary enquiry on ~~any~~ such points, settle the standing orders as formed by him ~~objected to by the Association of Employees~~ and furnish both to the employer and to the Association of Employees a copy of the standing orders as settled by him.

not inconsistent with existing practice.

(3). The Commissioner shall record the standing orders so settled in a Register of Standing Orders and Agreements.

(4). The standing orders settled by the Commissioner of Labour under sub-section (2) shall be determinative of the relations between the employer and his employees, in all matters enclosed therein

Employers or ~~and~~ employees desiring change in standing orders to give notice.

Expand with (1) & (2) of Sec 28 of Bombay Act

8. (1). Whenever any employer or association of employees desires to effect a change in the standing orders in force in respect of matters covered by Schedule I of the Act or in the existing conditions in respect of any matters referred to in Schedule II of the Act, the employer shall give notice in the form prescribed of the proposed change to the Association or the Association to the employer as the case may be, and simultaneously furnish a copy of such notice to the Commissioner of Labour & Labour Comr, the Registrar & other person as may be prescribed.

(2). The ~~Commissioner~~ Labour Comr shall ascert 15 days after the receipt of such notice whether the proposed change is mutually agreed to between the employer and the Association and if so agreed to, send register it in the Register of Agreements and inform both parties. In case of disagreement within 15 days he shall report to the ~~Chief Exec~~ Comr for initiating Conciliation ~~initiate conciliation~~ proceedings under the Act.

accept

(4) The employer & the Association shall maintain records of all negotiations with each other and shall produce such records when called upon to do so.

Conciliators & Board of Conciliation.

9.(1). The Commissioner shall be ex officio Chief during any subsequent proceedings under the Act

Chief Conciliator of the State. ~~The Assistant Commissioners of Labour shall be ex officio Conciliators in respect of the concerns falling within their jurisdiction.~~

(2) The Government may on the recommendation of the Commissioner of Labour appoint a Special Conciliator in respect of any dispute.

Substitute Bombay 39(1) after the last four words

(3) If either of the parties desires conciliation by a Board, the Chief Conciliator shall move the Government which shall thereupon constitute a Board of Conciliation consisting of three independent persons.

Conciliation proceedings.

10 (1) The Conciliator or the Board shall ~~come to a decision after~~ conclude the enquiry ~~in the prescribed manner~~ within ~~two~~ one month of the initiation of conciliation proceedings or the appointment of the Board as the case may be.

(2) If a settlement be reached in the conciliation proceedings, the Conciliator or the Chairman of the Board shall send a report of proceedings with a copy of the Memorandum of Settlement to the Registrar and to both the parties.

(3) The Registrar shall record the settlement in the Register of Agreements.

(4) Where the parties do not come to a settlement, the Conciliator or the Board shall ~~record his or its findings and~~ submit a report to Government through the Chief Conciliator and such report shall be published in the Official Gazette, not later than the second issue of the date of receipt of the report.

Court of Arbitration and proceedings in Arbitration.

11 (1) The Government may constitute a Court of Arbitration for determining industrial disputes.

~~(2) In addition to the publishing of the report under section 10(5), the Government may, in their discretion, refer the point in dispute to a Court of Arbitration.~~

(2) At any time during the progress of the conciliation proceedings, the employer and the Association of Employees concerned may jointly apply to the Chief Conciliator for referring the point in dispute to arbitration, forthwith.

(3) The Chief Conciliator shall thereupon submit the application to the Government who shall refer it to the Court of Arbitration or to the one Sole Arbitrator, jointly named in the Application.

(4) The Court of Arbitration shall certify its Award to the Registrar and to the parties in dispute.

(5) The Registrar shall record the Award in the Register of Agreements.

(6) The Award shall be binding on the parties to the dispute and on their successors and assigns and shall not be called in question in any Civil or Criminal Court or other judicial proceedings.

New clause.

Nature of proceedings before Conciliator and Court.

12. All proceedings before the Commissioner of Labour or a Conciliator or a Board or a Sole Arbitrator shall be confidential. Proceedings before a Court of Arbitration shall be public except where the Court directs its sittings to be in camera.

Commissioner, Conciliator and member of Board to be public servants.

13. The Commissioner, an Assistant Commissioner, a Conciliator, every member of the Board of Conciliation, a Sole Arbitrator, and every member of the Court of Arbitration shall be deemed to be a public servant within the meaning of section 21, Indian Penal Code.

Penalty for obstructing any person from carrying out his duties under this Act.

14. Any person who wilfully refuses entry to the Commissioner to any place which he is entitled to enter under section 4 or who fails to produce any

document

document which he is required to produce, or who - fails to comply with any requisition or order issued to him by or under the provisions of this Act shall, on conviction, be punishable with fine which may - extend to Rs. ~~100~~, and in respect of a continuing failure with an additional fine of Rs 25/- ~~Contravention (adopt~~ etc (See 19(2))

Procedure before Commissioner, Conciliator and Court.

15. (1). In respect of every proceeding before them, ~~the Commissioner~~, the Conciliator, the Board of Conciliation, the Sole Arbitrator and the Court of Arbitration shall have the same powers as are vested in Courts under the Code of Civil Procedure, in respect of the - following matters when trying a suit:-

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) compelling the production of documents;

(c) issuing commissions for the examination of witnesses;

(d) proof of facts by affidavits;

and shall have such further powers as may be prescribed.

(2). (a) Every proceeding before a Court of - Arbitration shall be deemed to be a judicial proceeding within the meaning of sections 192, 193 and 228, Indian Penal Code, and within the meaning of the - Mysore Contempt of Courts Act.

(b) ~~Either party~~ Parties before the Court of Arbitration may ~~appear in person or by~~ be represented by Counsel.

~~(3). A Court of Arbitration shall have powers to direct by whom the whole or any part of the costs of a proceeding referred to it by Government under section 10(1) shall be paid.~~ There shall be no - award of costs in any ~~other~~ proceeding under the Act. ~~An order for costs made by a Court of Arbitration - shall be executed by the Civil Court within whose - jurisdiction any person directed by such order to pay such costs has a place of residence or business in the same manner as if it was a decree made by itself~~

in a suit.

Information furnished by a party to be treated as confidential.

16. (1). If a party to an industrial dispute - giving any information or producing any document in any proceeding under the Act makes a request in - writing to the Conciliator, the Board or the Court, as the case may be, that such information or the contents of such document may be treated as confidential, the Conciliator, the Board or the Court shall direct that such information or document be treated as confidential.

(2). The Conciliator or any member of the - Board or Court or any person present at or concerned in any proceeding under the Act shall not disclose any information or the contents of any document in respect of which a request has been made under sub-section (1) without the consent in writing of the party making the request under the said sub-section.

(3). Nothing in this section shall apply to disclosure of any information or the contents of any document for the purpose of a prosecution under this Act or under any other law for the time being in force.

Penalty for disclosing confidential information.

17. If a Conciliator or a member of a Board or Court or any person present at or concerned in any proceeding under the Act wilfully discloses any information or the contents of any document in contravention of this Act, he shall, on a complaint made by the party who gave the information or produced the document in such proceeding and on conviction, be punishable - with fine which may extend to Rs.1,000.

Illegal changes.

18. (1). No employer shall make any change in any industrial matter in regard to which a standing order has been settled under section 7 or which is mentioned in Schedule II before the agreement referred to in - sub-

sub-section 2 of section 8 is arrived at or where no such agreement is arrived at before the conciliation proceedings are completed or in cases where the dispute is referred to ~~a Court of~~ Arbitration, before the ~~Court has given its~~ the award has been given

(2). No employer shall make any such change in contravention of the terms of a registered agreement, a settlement or an award.

(3). Any change made in contravention of the provisions of sub-section (1) or (2) shall be illegal.

Penalty for illegal changes.

19. (1). Any employer who makes any illegal change shall, on conviction, be punishable with fine which may extend to Rs.5,000 and in the case of a continuing offence with an additional fine which may extend to Rs.200 per day for every day during which the offence continues after his last conviction for such offence.

(2). An employer who acts in contravention of a standing order settled under section 7 shall, on conviction, be punishable with fine which may extend to Rs.100 and in the case of a continuing contravention of such standing order, with an additional fine which may extend to Rs.25 per day for every day during which such contravention continues after his last conviction for such contravention.

Employer not to dismiss, reduce or punish an employee for being connected with an association.

20. (1). No employer shall dismiss or reduce any employee or punish him in any other manner by reason of the circumstance that the employee--

(a) is an officer or member of a registered Association or of an Association which has applied for being registered under this Act; or

(b) is entitled to the benefit of a registered agreement, ~~submission~~ settlement or award; or

(c) has appeared or intends to appear as a

a witness or has given ~~any~~ the evidence or intends to give evidence in a proceeding under this Act; or

(d) is ~~an officer or member of an organisation the object of which is to secure better industrial conditions; or~~

~~(e) is an officer or member of an organisation which is not declared unlawful;~~ or

(f) has gone on or joined a strike which is not illegal under the provisions of this Act.

(2). Whoever contravenes the provisions of sub-section (1) shall, on conviction, be punishable with fine which may extend to Rs.1,000.

~~(4) (3). The Court trying any offence under this section may direct that out of the fine recovered, such amount as it deems fit shall be paid to the employee concerned as compensation,~~ in cases of reduction or other punishment

(3) ~~(4).~~ Where the offence is one of wrongful dismissal, the Court ~~may in addition~~ shall be direct that the employer shall pay the dismissed employee wages for the period he is kept out of employment, based on his average wages for the twelve months preceding the date of dismissal.

Illegal strikes & lock-outs.

21. A strike or a lock-out shall be illegal which has any object other than or in addition to the furtherance of ~~a trade~~ an industrial dispute within the ~~trade or industry~~ industrial undertaking in which the strikers or employees locking-out are engaged.

Illegal strikes.

22. (1). A strike shall be illegal if it is commenced or continued--

(a) without giving notice in accordance with the provisions of section 8, and before the initiation of conciliation proceedings where ~~a settlement~~ an Agreement is not arrived at;

(b) only for the reason that the employer has not carried out the provisions of any standing order or has made an illegal change;

(c) in cases where conciliation proceedings in regard to the industrial dispute to which the strike relates have commenced, before ~~the completion of such proceedings~~ the expiry of 14 days after the publication of the Report;

(d)

(d) in case where the dispute has been referred to ~~a Court of~~ Arbitration before ~~such Court has given its~~ an award has been given,

(e) in contravention of the terms of a registered agreement, settlement award.

(2). In cases where conciliation proceedings in regard to any industrial dispute have been completed, a strike relating to such dispute shall be illegal if it is commenced at any time after the expiry of two months after the ~~completion of such proceedings~~. publication of the Report.

Illegal lock-outs.

23. (1). A lock-out shall be illegal if it is declared, commenced or continued--

(a) without giving notice in accordance with the provisions of section 8, and before the initiation of conciliation proceedings where ~~a settlement~~ an agreement is not arrived at;

(b) in cases where conciliation proceedings in regard to the industrial dispute to which the lock-out relates have commenced, before the ~~completion of such proceedings~~; the expiry of 14 days after publication of the Report

(c) in cases where the dispute has been referred to ~~a Court of~~ Arbitration, before ~~such Court has given its~~ an Award has been given

(d) in contravention of the terms of a registered agreement, settlement or award.

(2). In cases where conciliation proceedings in regard to any industrial dispute have been completed, a lock-out relating to such dispute shall be illegal if it is commenced at any time after the expiry of two months after the ~~completion of such proceedings~~. publication of the Report.

Penalty for declaring illegal lock-out.

24. Any employer who has declared a lock-out and continues it after it has been declared by the ~~Commissioner of Labour~~ Registrar to be illegal shall, on conviction, be punishable with fine which may extend to Rs.2,500 and shall, in addition, be directed by the Court to pay the employees kept out of employment by such lock-out, wages

for

After Clause 26.

Any person who instigates or incites an employer or an employee to secure relief in respect of an industrial matter, otherwise than through the provisions of this Act, shall, on conviction, be punishable with imprisonment of either description for a term which may extend to three months with fine or with both.

~~Provided that this shall not apply to any arrangements made inside an industrial undertaking for the joint discussion of industrial matters between the Employers and Representatives of the association.~~

for the period they are so kept out, based on the - average wages earned by each employee during the twelve months preceding the commencement of the lock-out.

Penalty for declaring or commencing an illegal strike.

25. Any employee who has gone on strike and continues the strike or who joins a strike, after it has been declared by the Registrar ~~Commissioner of Labour~~ to be illegal shall, on conviction, be punishable with imprisonment of either description for a term which may extend to 15 days or fine which may extend to ~~Rs. 50~~ Rs 25 and in the case of a continuing offence ..... Rs 50.

Penalty for instigating &c., illegal strikes and lock-outs.

26. If any person instigates or incites others to take part in, or otherwise acts in furtherance of, a strike or lock-out which is declared to be illegal by the Registrar ~~Commissioner of Labour~~, whether such strike or lock-out has commenced or not, he shall, on conviction, be punishable with imprisonment of either description for a term which may extend to three months, or with - fine, or with both.

Explanation:--For the purposes of this section, a person who contributes, collects or solicits funds for the purposes of any such strike or lock-out shall be deemed to act in furtherance thereof.

Liability of the executive of an association.

27. Where anything is required to be done by any association by or under any provision of this Act, the person authorised in this behalf by the executive of the association or if no person is so authorised every member of the executive of the association shall be bound to do the same and shall be personally liable if - default is made in the doing of any such thing.

Explanation.--For the purposes of this section, executive of an association means the body by - whatever name called to which the management of the affairs of the association is entrusted.

Modifications in schedules

28. ~~The Government may, by notification in the Official Gazette, at any time, make any additions or alterations in the industrial matters specified in - Schedules I or II or may delete therefrom any such - matter:~~

~~provided~~

After clause [illegible]

2. ~~That~~ No organisation of employees other than those constituted under this Act ~~shall be~~ shall be recognised or permitted to be represented in any proceedings under this Act.

18/7

~~provided that before making such addition, alteration or deletion, a draft of such addition, alteration or deletion shall be published for the information of all persons likely to be affected thereby and the Government shall consider any objection or suggestion that may be received by it from any person with respect thereto.~~

Certain Acts not to apply to associations.

29. The following Acts, namely:-

(a) The Mysore Societies Registration Act,

(b) The Mysore Co-operative Societies Act,

(c) The Mysore Companies Act and

(d) The Mysore Insurance Act,

shall not apply to any Registered Association and the registration of any Association of Industrial Employees under any such Act shall be void.

Persons acting in good faith not to be sued.

30. No suit or proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Immunity from civil suit in certain cases.

New.

31. (1). No suit or other legal proceeding shall be maintainable in any Civil Court against any registered Association or any officer or member thereof in respect of any act done in contemplation or furtherance of an ~~trade~~ industrial dispute to which a member of the Association is a party on the ground only that such act induces some other person to break a contract of employment, or that it is in interference with the ~~trade~~ industry, business or employment of some other person or with the right of some other person to dispose of his capital or of his labour as he wills.

(2). A registered Association shall not be liable in any suit or other legal proceeding in any Civil Court in respect of any tortious act done in contemplation or furtherance of an ~~trade~~ industrial dispute by an agent of the Association if it is proved that such person acted without the knowledge of, or contrary to express instructions given by, the executive of the Association.

Enforceability of agreements.

32. Notwithstanding anything contained in any other law for the time being in force, an agreement between the members of a registered Association shall not be void or voidable merely by reason of the fact that any of the objects of the agreement are in - restraint of trade:

Provided that nothing in this section shall enable any Civil Court to entertain any legal proceeding instituted for the express purpose of enforcing or recovering damages for the breach of any agreement concerning the conditions on which any members of an Association shall or shall not work, or be employed.

Jurisdiction of Court.

33. No Court inferior to that of a Magistrate of the First Class shall try offences under the Act.

Rules.

34. (1). The Government may make Rules to carry out the purposes of this Act.

(2). In particular and without prejudice to the generality of the foregoing power, such rules may be made for all or any of the following matters, namely:-

(a) the manner in which the association of employees should be constituted;

(b) the objects that may be included in the rules of such Association, the other matters to be provided in the rules, the Accounts and Registers to be maintained in respect of its business, and the Returns and information to be furnished to the Registrar;

(c) the custody of the funds and property of an Association and the objects for which such funds may be spent;

~~(d) the Audit of the Accounts of an Association;~~

(e) the form in which the certificate of registration may be issued;

(f) the constitution of a Board or Court and the qualifications for a Special Conciliator, or member of a Board or of the Court;

(g) the fee to be paid on applications under the Act;

(h)

(h) the manner in which the total number of employees is to be computed for the purposes of this Act;

(i) the other powers of the several Authorities under section 15;

(j) the manner in which standing orders may be submitted under section 7;

(k) the form in which notice of change is to be given and the persons to whom copies of such notice are to be sent under section 8;

(l) the form in which a statement of the case is to be forwarded to a Special Conciliator, Board or Court or Sole arbitrator,

(m) the procedure to be followed by the several Authorities under the Act;

(n) the registers to be maintained by the employer, and the returns and information to be periodically furnished by him to the Commissioner of Labour or other Authorities for the purposes of this Act;

(o) the officers to be deemed as employers in respect of industrial undertakings owned by the Government and

(p) the form in which the memorandum of agreement, settlement or the Award shall be drawn up and the manner in which it shall be recorded and published by the ~~Commissioner of Labour~~ Registrar.

(3). The Government may also prescribe a fine not exceeding ~~five~~ one hundred rupees for a breach of any such rule. 18/7/44

(4). The rules made under this section shall be subject to the condition of previous publication in the Official Gazette.

SCHEDULE I.

(Section 7.)

1. Classification of employees, e.g., permanent, temporary, apprentices, probationers, ~~badlie~~, etc.

2. Manner of notification to employees of periods and hours of work, holidays, pay days and wage rates.

3. Shift working.

4. Attendance and late coming.

5. Leave and holidays; Conditions, procedure and authority to grant.

6. Liability to search and entry into premises by certain gates.

7. Temporary stoppages of work and rights and - liabilities of employers and employees arising therefrom.

8. Termination of employment. Notice to be - given by employer and employee.

9. ~~Suspension or dismissal~~ Punishment for misconduct and the acts or omissions which constitute misconduct.

10. Means of redress for employees against unfair treatment or wrongful exaction on the part of the employer or his agent or servant.

11 Rules of discipline

SCHEDULE II.

SCHEDULE II.

(Section 8.).

1. Reduction intended to be of permanent or semi-permanent character in the number of persons employed or to be employed not due to force majeure.

~~2. Demands for permanent or semi-permanent increase in the number of persons employed or to be employed in any department or departments.~~

Both be omitted after verification

~~3.~~ Dismissal of any employee except in accordance with law or as provided for in the standing orders framed under section 7 of this Act.

4. Introduction of rationalisation ~~or other~~ or other new efficiency systems of work.

5. Starting, alteration or discontinuance of shift working otherwise than in accordance with the standing orders.

6. ~~Introduction of new~~ Rules of discipline ~~or alteration of existing rules and their interpretation.~~

Transfer as clause 11 of Sch I. (18-7-49)

7. Withdrawal of any customary concession or privilege or change in usage.

8. Wages ~~and total weekly hours of work.~~ and total weekly hours of work.

draft note on 4

of Govt THE MYSORE LABOUR ~~ACT~~ Bill

This is a piece of labour legislation which is long overdue in the State. We have no machinery at present for the settlement of industrial disputes. By reason of the growth of organization of industrial workers and of the increasing influence exercised by public opinion on the course of disputes, the Government of India undertook legislation for the prevention and settlement of industrial disputes more than 10 years back. The Government of India have enacted two statutes pertaining to labour, namely, the Trade Unions Act (XVI of 1926) which legalizes the formation of Trade Unions and gives protection to their legitimate activities, and the Trade Disputes Act (VII of 1929) which provides for the investigation and settlement of trade disputes. A feature of the Trade Disputes Act is that the report of a Court of Inquiry or a Board of Conciliation to which a trade dispute is referred will be merely published by the Government. Neither party to the dispute is under any obligation to accept the findings of the Court or the advice of the Board. Where the dispute has not been brought to an end during the deliberations of the tribunal that has been appointed, reliance is placed on the force of public opinion which will be enabled by the publication of the report of the tribunal to arrive at just conclusions on the merits of the dispute, to influence the parties to come to a settlement. Apparently this procedure merely helped the investigation of the points in dispute and did not bring about a settlement and was found ineffective

to bring about the settlement of the dispute. Consequently in Bombay local legislation was taken up to make provision for the promotion of peaceful and amicable settlement of industrial disputes by conciliation and arbitration, and the Bombay Industrial Disputes Act, 1938, was passed. Its object is to prevent strikes to the extent possible by making them illegal and to settle industrial disputes which are the causes of strikes by means of conciliation and arbitration. The main lines of the Bombay Act are these. The definition of 'Industrial matter' is made fairly comprehensive including almost all questions which are likely to arise between an employer and an employee in an industry and they are classified into two schedules, the first consisting of general matters more or less of a permanent nature regarding which Standing Orders would be framed by each industrial undertaking and the second schedule consisting of matters of an individual or occasional nature. Every employer or an employee desiring a change in any industrial matter will have to give notice to the other party and also to the Commissioner of Labour. If no agreement is arrived at between the parties in regard to the proposed change, it will be referred to the Conciliator or the Board of Conciliation to bring about a settlement. It will be the endeavour of the Conciliator or the Board to bring about the settlement of an industrial dispute and their report will be published by the Government. A further step is to decide by arbitration an industrial dispute where an employer and a registered

union

union agree to submit the dispute to arbitration of any person or to the Court of Industrial Arbitration The award of the Arbitrator and the Court will be binding upon the parties. Strikes and lock-outs declared without giving notice or before the completion of the conciliation or arbitration proceedings or in contravention of an agreement, settlement or award are declared illegal and penalties are provided for promoting an illegal strike or lock-out. Penalties are also provided for making an illegal change.

There are a few deficiencies in the Bombay Act also. An industrial dispute in respect of which the parties do not arrive at an agreement or settlement during conciliation cannot be referred to arbitration unless both the employer and the registered union agreed to so refer. It is only a recognized union that can be registered under the Act unless the union has a membership of twenty five per cent of the total number of employees employed in the industry. A 'Recognized Union ɜans a union which has been recognized in the prescribed manner by an employer. Consequently when an employer does not recognize such a union it cannot register itself and the procedure in regard to arbitration will fail. If employers do not give recognition to unions the Act cannot work satisfactorily. There is also no alternative provision enabling reference to arbitration if neither party or only one party ɿgrees to arbitration.

The

The draft Bill has adopted the principles and salient provisions of the Indian Trade Unions Act, the Trade Disputes Act and the Bombay Industrial Disputes Act. Elaborate provisions in regard to procedure and so on, have been omitted and modifications have been made to suit local conditions. Many of the details will be provided for by the rules to be framed under the Act. I have made some verbal changes in some of the clauses of the Bill and added some clauses which will be necessary for the proper working of the Act. A revised Bill indicating the changes and additions in red ink has been enclosed.

The following notes on clauses in the Bill explain the object of the clauses and the ~~changes~~ alterations where they differ from the Indian and Bombay Acts :-

CLAUSE 1.

The Act is intended to apply to industrial undertakings owned by Government and local authorities also, so that employees therein will be enabled to form associations and the provisions as regards conciliation, arbitration, strikes and lock-outs will apply to such undertakings also.

CLAUSE 2.

Since under Law a combination of workers doing certain acts which are prejudicial to an employer or are in restraint of trade is held to be a conspiracy and an actionable wrong, this clause gives legal recognition to such a combina-

tion

combination or association. This right of association is given only to the employees in industrial undertakings. Consequently outsiders or those who are not employees cannot be members of an association. Under the Indian Trade Unions Act, Section 22 a number of officers of a Trade Union not exceeding one half may be outsiders not actually engaged or employed in the industry. Considering the nature of the industries in the State, such as, Gold Mines, the Government Factories and the Government Railways, this may not be a suitable provision for being embodied in the Bill. Further in almost all the industries at the present day there are a fairly large number of educated, intelligent employees sufficiently experienced to hold the offices of the association and outside help and interference would be unnecessary. All the help that may be necessary will be given by the Commissioner of Labour and his staff one of whose duties will be to organize, help and develop the work of associations.

The idea underlying the Act is to form an association for each industrial undertaking employing not less than 100 employees: but in respect of employees of small industrial establishments of a like nature in any local area or in different areas the Government may extend this right of association.

CLAUSE 3.

The definition of Employer omits the inclusion of an association or group of employers because such an association or group is not contemplated by this Act.

CLAUSE 4.

[Slight alteration is made in sub-clause (1) since it is not usual in an Act to state that a particular officer should be responsible for the proper administration of the Act.] The Commissioner of Labour will represent the interests of labour and the general public.

CLAUSE 5.

It will be one of the main duties of the Commissioner of Labour as soon as this Act comes into force to help in the organization of an association of employees in each industrial undertaking employing not less than one hundred workmen and to guide the officers of such associations.

CLAUSE 6.

The Commissioner of Labour who is to be ex officio Registrar of Associations will register associations satisfying the prescribed conditions. Details as regards the constitution of an association are left to the rules. Every registered association will have the status of a Body Corporate with the incidents of perpetual succession, power to acquire and hold property

and to contract, and the capacity to sue and be sued.

CLAUSE 7.

This follows section 26 of the Bombay Industrial Disputes Act with slight changes. Industrial matters are classified into two schedules. The first schedule comprises of matters which are of a general nature and the second schedule, matters which are of an individual or occasional nature. An employer is required to frame Standing Orders in respect of matters in the First Schedule and submit such Standing Orders to the Commissioner within two months after the commencement of the Act. The Commissioner will hold a summary enquiry on points objected to by the Association and thereafter settle the Standing Orders and record them in the Register of Standing Orders. The Standing Orders settled by him shall be determinative of the relations between the employer and his employees.

CLAUSE 8.

This follows section 28 of the Bombay Act. Whenever an employer or association desires to effect a change in the Standing Orders in respect of matters in Schedule I or in the existing conditions in respect of matters in Schedule II, notice should be given to the other party and also to the Commissioner. The Commissioner will ascertain if

the parties agree to the change and if so, register it in the Register of Agreements. In case of disagreement he will initiate conciliation proceedings.

CLAUSE 9.

The Commissioner is ex officio Chief Conciliator and the Assistant Commissioners of Labour will be Conciliators. If either party desires conciliation by a Board, the Government will appoint a Board of Conciliation consisting of three independent persons.

CLAUSE 10.

Procedure regarding conciliation proceedings will be prescribed by the Rules. If a settlement is reached in the conciliation proceedings it will be recorded by the Commissioner in the Register of Agreements. Where the parties do not come to a settlement the Conciliator or the Board will submit a report to the Government which will be published in the official Gazette, and enable the parties, if they so chose, to follow the advice given in the report. The provisions regarding a Court of Inquiry in the Indian Trade Disputes Act and the detailed procedure regarding conciliation proceedings in the Bombay Act are omitted as being unnecessary complications.

CLAUSE 11.

If the employer and the association jointly apply for referring a point in dispute to arbitration, it will be referred to the Court of Arbitration. Where neither of them agrees to arbitration

or

or only one of them agrees to arbitration, there is no provision in the Bombay Act as to what should be done In sub-clause (1), Clause 11, of the Bill, power has been given to Government to refer to arbitration a point in dispute. Thus where the conciliation proceedings do not end in settlement and the Government finds the point fairly important, they may refer it to arbitration, notwithstanding both parties failing to consent to such reference. This provision will bring about a final decision by the award of the Court of Arbitration in respect of disputes and such award will be binding on all parties.

The award of the Court of Arbitration will be recorded in the Register of Agreements and will be binding on the parties to the dispute and their successors, and cannot be called in question in any civil or criminal Court.

CLAUSE 12.

It is desirable that the conciliation proceedings are kept confidential. Proceedings before a Court will be public except where the Court otherwise directs.

CLAUSE 13.

This follows Section 80 of the Bombay Act.

CLAUSE 14.

This follows Section 70 of the Bombay Act.

CLAUSE 15.

Sub-clause (1) follows Sections 40 and 56 of the Bombay Act.

Sub-clause (2) follows Section 57, sub-section (3), of the Bombay Act.

Sub-clause (3) adopts the principle of Section 57, sub-section (4) and Section 58 of the Bombay Act. Power is given to a Court of Arbitration to direct payment of costs in respect of a proceeding referred to it by Government. There will be no direction as to costs in other proceedings because both parties will have agreed to the submission to arbitration. Provision is also made for the execution of such an order by a civil Court having jurisdiction.

CLAUSE 16.

This follows Section 40, sub-sections 4, 5 and 6 of the Bombay Act.

CLAUSE 17.

This follows Section 68 of the Bombay Act.

CLAUSE 18.

This follows Section 73 of the Bombay Act and defines what are illegal changes; in effect changes in the Standing Orders or in industrial matters made by an employer otherwise than in accordance with this Act would be illegal.

CLAUSE 19.

This follows Section 69 of the Bombay Act and constitutes the making of an illegal change

an offence and provides a penalty for such offence.

CLAUSE 20.

This follows Section 64 of the Bombay Act and prevents victimization of employees who exercise their legitimate rights in a registered association.

CLAUSE 21.

This declares a strike or lock-out to be illegal which has any object other than or in addition to the furtherance of an industrial dispute. This follows Section 60 of the Indian Trade Disputes Act. According to this there can be a legal strike or lock-out only in furtherance of an industrial dispute. All other strikes or lock-outs which have other objects or purposes will be illegal. Even strikes or lock-outs in furtherance of an industrial dispute are held to be illegal if declared or continued in certain circumstances as mentioned in the following clauses. The idea is to prevent strikes or lock-outs to the extent possible and to solve all industrial disputes by conciliation and arbitration. There cannot be a strike or lock-out except in respect of an industrial dispute, and an industrial dispute is one which is connected with any industrial matter. Disputes in industrial matters arise in connection with changes proposed in them. According to the procedure in the Bill,

they

they will have to be notified to the Commissioner and then submitted for conciliation or arbitration if not settled by agreement of parties. Till such settlement by conciliation or award by the Court of Arbitration is completed, a strike or lock-out on the ground of such dispute is held to be illegal by Clauses 22 and 23 which follows Sections 62+69 of the Bombay Act. Any lock-out or strike in contravention of the terms of an agreement, settlement or award is also held to be illegal. Illegal strikes and illegal lock-outs are made offences and punishable. Consequently practically all disputes in respect of industrial matters will be settled by conciliation or arbitration and strikes or lock-outs will be to a great extent prevented.

In this connection the importance of the items in the schedules has to be emphasized. The items in the schedules appear to comprise almost all industrial matters. If in the course of the working of the Act it is found that any industrial matters have been omitted, power is given by Clause 28 to the Government to add to the schedules If an industrial matter is not included in the schedules, a change in respect of such matter would not be subject to the provisions of this Act, in regard to notice of the proposed change, conciliation and arbitration. Consequently a strike or lock-out in respect of any change in such matter which is not included in the schedules would not be illegal and such change would not

be

be an illegal change. It therefore appears to be in the interests of the employers and employees to bring in all industrial matters that arise in their industrial undertakings in one or other of the schedules.

CLAUSES 22 & 23.

These follow Sections 62 and 63 of the Bombay Act and define what are illegal strikes and illegal lock-outs.

CLAUSES 24 & 25.

These follow Sections 65 and 66 of the Bombay Act and provide penalties for declaring illegal lock-outs or illegal strikes.

CLAUSE 26.

This follows Section 67 of the Bombay Act and provides penalties in respect of instigation and incitement of illegal strikes and lock-outs.

CLAUSE 27.

This follows Section 78 of the Bombay Act and defines the extent of liability of the executive of an association.

CLAUSE 28.

This follows Section 72 of the Bombay Act and empowers the Government to make modifications in the schedules.

CLAUSE 29.

This follows Section 14 of the Indian Trade Unions Act.

CLAUSE 30.

This follows Section 81 of the Bombay Act and is the usual provision giving protection to persons acting bona fide.

CLAUSE 31.

This follows Section 18 of the Indian Trade Unions Act and gives immunity from civil suit in respect of acts done in contemplation or furtherance of an industrial dispute. Under the ordinary law an act which brings about a breach of contract of employment or which is an interference with the trade, business or employment of some other person, is tortious. Such act if done by a member of an association or by an association in furtherance of an industrial dispute is protected from civil action by this clause.

CLAUSE 32.

This follows Section 19 of the Indian Trade Unions Act and permits enforcement of agreement between members of an association though it may be in restraint of trade.

CLAUSE 33.

This requires offences under the Act to be tried by a Magistrate of the First Class.

CLAUSE 34.

This is the usual clause provided for Government to make rules.

Appendix F G—1]

SUBJECT.....

.....

.....

Diary No. of letter replied to.....

General and Revenue Secretariat

( )

the *19*

Date of issue.... 8-7-41

Signed by ..... M. G. L.

List of enclosures.....

Copied by .....

Examined by.....

Issued 12 copies

Secti...

File No.

Serial No.

1 148. L. 157.

To

1 The Labour Commr.

2 " Dos D.P.

3 " Secy to Govt. Dev. Dept

4 R. G. Morrison Esq. Supdt. Nundidrong Mines, K. G. F.

5 A. Nisbet Esq. Banglore woollen cotton & silk Mills

6. Sri V. N. Chandran Managing Dir. M/s N. Sriniv & Co. Tobacco Chief Bangalore

7. G. R. Chandrasekaran R. A. Member,

8 T. Ramaseshan the Sec. Workers Bar

9 G. Venkatadriaj Esq Betharam, Oorgaum

With refer. to G.O. No.

Comp. D. 5-1 b 9.10.b 4, constituting a Committee to pass of legislation

Govt. is ~~about~~ the ~~now~~ for promoting good relations between employers and workmen, I am directed to state that a meeting of the Committee will be held on this Secretariat upon Monday for next week the 3rd which office, Bangalore 1.2 p.m. a Wednesday, is 18th ~~[illegible]~~ instant. The meeting will be continued, if necessary on the 21st and 18th also, the Honourable entitled on the meeting on the 5th you are requested to kindly make a Comment i amend the existing Industrial Connection Act 15 enclosed herewith for your reference a copy of Draft of the Mysore Labour Bill, after vote on the Subject matter is not being ~~[illegible]~~ met the.

GENERAL AND REVENUE SECRETARIAT.

(*Continuation sheet draft form.*)

the proposals of the Govt., but only certain proposals which to form as was known to be for exclusive discussion. A copy of G.O. No. 677-01 dt. 30-4-1079 30/4 re. enquiring into the strike in the Bangalore woollen cotton textile mills & also enclosed also extracts of with certain from Rajamanikyam Dice Strike from the Mathews report. On the Consult of Labour in the G.O.S.

You are requested to be so good as to make it convenient to attend on Monday the 16th inst.

Yours

Labour Enquiry Committee

No. D 148-157

Office of the Secretary,
Labour Enquiry Committee,
Public Offices, Bangalore

Dated, Bangalore 8 July 194

From

George Mathan, Esq., B.A.C.S.,
Secretary, Labour Enquiry Committee.

To

Sir,

With reference to Government Order No. Emp.L.5-16 dated 10th June 1941 constituting a Committee to examine the quest of of legislation for promoting good relations between employers and workmen etc., I am directed to state that a meeti of the Committee will be held in the Chambers of the Minist for Law in the Old Public Offices, Bangalore, at 2 p.m. on Wednesday the 16th instant. The meetings will be continued if necessary, on the 17th and 18th also, the hours being settled at the meeting on the 16th; you are requested to kindly make it convenient to attend the meetings.

In this connection, I am to enclose herewith for your reference a copy of a draft of the Mysore Labour Bill, -- together with a note on the subject, and to state that they are not the proposals of the Government, but only certain proposals submitted to Government in this form to facilitate discussion. A copy of Government Order No. ~~xx6770/Lab~~ 6770 Lab 310-40-7 dated 30th June 1941 regarding enquiry ~~with~~ into the strike in the Bangalore Woollen, Cotton and Silk Mills Ltd., is also enclosed along with extracts of certain ~~hours~~ paras from Rajasanta Pravina Diwan Bahadur Mr. Mathan's report on the conditions of labour in the Kolar Gold Field.

I have the honour to be,
Sir
Your most obedient servant.

Secretary,
Labour Enquiry Committee.

Telegraphic Address :-
"MINBOARD," OORGAUM.

THE KOLAR GOLD FIELD MINING BOARD,
OORGAUM,
MYSORE STATE,
S. INDIA.

(CONFIDENTIAL)

July. 14. 1941.

GOVT. OF MYSORE

The Secretary to Government of Mysore,
Development Department,
Bangalore.

(Seen by the minister) WQ

Sir,

I have the honour to refer to your D.O. No.D. 6059-64 dated 17th May enclosing copy of the draft of the Mysore Labour Act and, as requested, to enclose herewith for your consideration a Memorandum prepared by the Board on the Act.

I have the honour to be,
Sir,
Your most obedient servant,

For favour of perusal
Secretary.

(Minister, Law) WQ 16/7/41

MEMORANDUM

ON THE

DRAFT OF THE MYSORE LABOUR ACT.

::::::::::::

The Mining Board is sympathetic towards the objects underlying the proposed legislation and appreciates both the need for some measures and the many difficulties confronting Government in framing an Act designed to cover impartially the field of Industrial disputes.

The Board is of the opinion that the provisions of the Bombay Industrial Disputes Act 1938 upon which the Draft of the Mysore Labour Act has been principally based, offer difficulties when applied to the peculiar conditions attaching to the Mining Industry. It is doubtful if the former act was intended to cover such conditions and where there is a well established Mining Industry, the general practice has run towards separate enactments for Mines and Factories.

This point is given particular emphasis when it is realised that labour classifications on the Kolar Gold Fields distinguish between 463 separate occupations and that operations common to four different mines, include the numerous phases of underground work, plate shops, fitting, moulding and wood-working shops, and complicated metallurgical processes dealing with very valuable material as well as the establishment and maintenance of townsites embodying 15 to 20,000 souls on each mine.

The importance of taking all reasonable measures to ensure industrial peace is recognised and particularly so during war time when maximum production is essential. It is feared however that the introduction of fully fledged legislation of the character under discussion, before the parties entitled to its use, have adjusted themselves by a process of evolution to the principles of collective bargaining and a knowledge of their proper and reasonable usage, may impede rather than promote the objects in view. It is believed that the experience, confidence and sense of responsibility gained during a transitional growing period under modified legislation would go far towards correcting the present disposition to regard a Union as a mere agency for securing benefits from employers. It would also emphasize the valuable work that can be done in the way of mutual help.

While the Mine Panchayats so far, have not proved themselves effective agencies in labour disputes, the Board feels that they are a traditional factor whose possibilities are by no means exhausted and that the appointment of a labour officer to advise and assist them might lead to the effective representation of labour.

On the other hand if labour legislation is considered essential, in view of the lack of experience on the part of all parties concerned, the Mining Board strongly recommends to Government that at the present stage, legislation should not go beyond provisions for the organization and control of Associations of employees, and for the establishment of the principles of conciliation between employees and such organizations either by a conciliation officer or Board.

Without prejudice to the above recommendation, the Board considers that the broad features of the draft act are defective on the following points :-

(1) <u>The Introduction of principles of compulsion</u> :

The Royal Commission on Labour was of the opinion that the effect on Industry would be disastrous if there was a general tendency to look to some external authority to preserve industrial peace and to discourage settlement within the Industry itself. The Board is in entire agreement with this principle which it considers most appropriate at the present juncture.

The Board further considers that the principle of compulsion between employer and employee or Government and either party is objectionable and unjustified except in extreme emergencies. The War may be considered such an emergency but the Board respectfully points out that the Defence of India Act has been introduced to cover that emergency They feel that any powers of compulsion taken by Government in this connection should be associated with that or similar emergency measures.

Among the objections it may be noted that compulsory awards are readily enforceable against an employer but have frequently been ineffective when applied to employees

2) <u>The variety of powers delegated to the Labour Commissioner</u>

The Labour Commissioner in addition to being responsible for the administration of the act, also performs the duties of organizer of Associations,

Conciliator, Registrar and Representative of the general public; a combination of duties which in practice could hardly be carried out to the satisfaction of the parties concerned.

His interpretation of points in the act such as initial standing orders, legality of strikes and lockouts and right of entry into private premises, appears to be final and not subject to appeal. It is suggested that these powers be reviewed and that any question of the interpretation of the act be left to a judicial body.

(3) The absence of an Appeal Court of a Judicial Nature :

The Board feels that the right of appeal on the part of both employer and employee to a Court similar to the Industrial Court established under the Bombay Act is highly desirable, particularly with reference to such matters as the legality of strikes and lockouts and initial standing orders as settled by the Commissioner.

While the principle of compulsion has already been objected to, the Board considers that the existence of such a Court would be an inducement to mutually agreed arbitration.

(4) The Relegation of certain essential matters to the Rules

It is submitted that the essential features of Associations of employees should be defined under the Act and not in Rules.

The constitution,procedure,powers,and duties of the Conciliator and any Board or Court appointed, as well as the qualifications for appointment as Concilia or or Member of a Board or Court should be defined in the Act rather than in the Rules.

(5) Means of ensuring that the Associations of Employees will be the bargaining agency in any dispute :

The effectiveness of the whole act depends upon this provision which in tu rn as the act now reads is dependent on rules which may be subsequently published.

If membership is voluntary, the close association with, and probable direction by a Government Officer, of employees associations, suggests that Govt. in effect

is simply taking the place of the Companies as regards mthe Mine Panchayats under existing arrangements.

In the interests of industrial peace compulsory membership of associations by all employees may have temporary advantages, but it is considered a dangerous precedent to establish closed shop principles by legislation.

In either case the act does not exclude the possibility of the existence of an illegal, unauthorised or secret association, sponsored by outside political or labour agencies, capable of wielding decisive power in any dispute, real or imaginary, by virtue of threats and intimidation. This condition has existed to some degree in practically all labour disputes experienced on the Field, and it is not without significance that the present labour member from K.G.F. appointed by Government to this Committee has been subjected to threats.

The points of detail which in the Board's opinion ire r econsideration now follow :-

<u>Section 3 - Sub-Section 8</u>. The status of a Contractor as understood on the Mines should be specifically defined, preferably as an employer. It is further noted that by the definition of an employee given, an employer is precluded from discharging him even though he has gone on an illegal strike or furthers -such a strike arising out of a dispute relating to a change of which notice is given under Sec.8.

<u>Section 3 - (15)</u>. The definition given would appear to leave the privilege of membership of an association open to abuse. The following definition is submitted :-

> "Member means an <u>employee</u> who is an ordinary member of an association and who is and has been paying the regular Association subscription of not less than one anna per month for six consecutive months within the preceding year, and the term membership shall be construed accordingly.

Section 4 - (3). The Board sees no reason why the Commissioner should be authorised to demand entry into an employee's residence simply because it has been provided by the employer. They feel strongly that the ordinary process of law should apply here in the same manner as would be the case with an employee not so provided for.

Section 7 - (1). Standing orders do and must vary for each department on each mine and in many cases with different classes of labour in the same department. This suggests an indefinite number of standing orders and associations for each mine. Standing orders embody customs and procedures accumulated over a period of years of continuous operation. If these customs and procedures are codified they must be standardised, and this cannot be done satisfactorily within a period of two months, without being a source of serious dissatisfaction to employees and employer alike.

Section 7 - (2). The authority of the Commissioner to settle standing orders is arbitrar y and should be subject to appeal to some properly constituted body. In Bombay (Sec.26) provision is made for appeal to the Industrial Court.

The Mining Board is of the opinion that such a Court, consisting of Officers of high Judicial qualifications should be provided for under the Act and its duties defined. Bombay - page 14 - 24. 2. They are also of the opinion that this and other decisions by such a Court rather than being irrevocable should stand for a period of time only when they can again be subjected to review.

Section 8 - (1). The Board sees no provision for dealing with disputes arising out of matters not covered in Schedules I & II.

Section 9 (3). The act provides for the appointment of a Conciliation Board on application by either party. It is considered essential that the suggestion of compulsion be removed here by requiring both partie to agree ~~to~~ on this point.

In the Indian Trades Dispute Act 1929 - page 5 - para 6 (2), the parties to the dispute in certain circumstances may nominate their representatives to a Board, a point worthy of consideration.

Section 10 - (5). The point at which conciliation proceedings are completed should be specifically defined, as much depends on this. Se Bombay Act page 24 - Sec. 42.

The Mining Board also considers that the report of a Conciliator or Board should be confined to a statement of the steps taken for the purpose of ascertaining the facts and circumstances relating to the dispute, the facts and circumstances so determined together with the reasons which in his or their opinion a settlement could not be arrived at.

Section 11 (1). The Mining Board has already expressed its strong objections to compulsory arbitration. It is considered however that in the event of mutual agreement to appeal to a higher body following failure of conciliation, the most satisfactory authority to hear such appeal would be a body whose impartiality is beyond reproach. The nearest approach to this should be the Court referred to under Section 7 (2).

Section 11 (5). There should be some means of ensuring that Court proceedings will not be unduly prolonged. Delays may create hardships both for employer and employee.

Section 14. The Board is not clear as to the finality of a Commissioner's decision under this section.

Section 15 (3). The ability of either party to pay should be considered here and the Board is of the opinion that in the interest of industrial peace the Government should bear the cost of arbitrators, outside an Industrial Court, if constituted.

Section 18 (2 & 3). These sub-sections should apply equally to Associations and their members.

Changes made due to Force Majeure should be excluded from the provisions of Sec.16(1, 2 & 3).

Section 19 (1). Considering the intricate nature of many industrial undertakings and the possibilities of unintentional breaches of standing orders, the penalty is unreasonable, but should apply equally to Associations of Employees either collectively or individually.

Section 20 (1). This Sub-Section is r edundant as it is fundamental in the Act that the rights of Associations and their members be recognised. It is assumed that the right of dismissal will be determined under standing order s.

The inclusion of this section would make it extremely difficult to discharge an official of an association for good and sufficient reasons.

Section 22 (c). Compulsory arbitration is objectionable but Government should be required to give notice to both employer and employee when a dispute is compulsorily r eferred to arbitration.

Sections 2 5 & 26. The definition of employee as already pointed out, precludes discharge if the illegal strike arises over a change in respect of which notice is given under Section 8.

Section 33. It would be desirable if an Industrial Court should prove acceptable, that matters which must be referred to it should be distinguished in the Act from those which may be referred to a Civil Court.

Schedules 1 & 2.

The Board has given the matters referred to under these schedules their most earnest consideration. The determination of these points as required in the Act for the Industry as a whole requires a complete reversal of past policy, and the implications are so far reaching that they respectfully request further time for consideration.

THE KOLAR GOLD FIELD MINING BOARD
JUL 14 1941
OORGAUM

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat.

Dated Bangalore, 21.7.41.

D. O. No. 22. 328 Labour

Dear Sir:

I send herewith a copy of the Draft of the Mysore Labour Bill together with a draft Report of the Committee ~~on the subject~~ I am desired to request you to kindly arrange to send for approval three clean proofs of the Bill and Report before 12 noon tomorrow.

Yours sincerely,

B. Krishnaswami Chetty, Esq., B.E., etc.
Superintendent,
Government Printing.
Bangalore.

DRAFT REPORT.

We have discussed the general principles of labour legislation and the Draft Bill placed before us ~~as the basis for~~ to focus discussion. ~~On the basis of the general agreement which has been found to be the prevailing has~~, We have ~~by common consent~~ effected various changes in the bill, ~~which we consider necessary to make the scheme workable~~. ~~The revised draft bill as finally accepted~~ is ~~here with~~ appended, and has been by two unanimous approval.

in order to embody the common measure of agreement amongst us. The bill as revised ~~and~~

It embodies in our opinion a workable scheme

The Members representing labour requested that in view of the general agreement in the Committee, the Government ~~may~~ might be moved to enact this measure as ~~an~~ a piece of emergency ~~legislation~~ ~~bringing into effect~~ legislation, the provisions ~~of the act~~ ~~except those~~ excepting relating to Standing Orders, which require time for being brought into effect. The other members of the Committee have no objection to the ~~request~~ suggestion being ~~granted~~ acted upon, ~~in the event of~~ if the Government find~~ing that~~ ~~the~~ such action ~~is~~ to be possible.

DRAFT REPORT.

...

We have discussed the general principles of Labour Legislation and also the Draft Bill placed before us to focus discussion. We have effected various changes in the bill in order to embody the common measure of agreement among us. The bill as revised is appended and has our unamimous approval. It embodies, in our opinion a workable scheme.

The Members representing labour requested that in view of the general agreement in the Committee, the Government might be moved to enact this measure as a piece of emergency legislation, the provisions excepting relating to Standing Orders, which require time for being brought into effect. The other members of the Committee have no objection to the suggestion being acted upon, if the Government finding that such action is possible.

DRAFT OF MYSORE LABOUR BILL.

WHEREAS it is expedient to make provision for the promotion of peaceful and amicable settlement of industrial disputes by conciliation and arbitration and the organisation of industrial employees into associations to secure their welfare, and for certain other purposes, hereinafter provided, it is hereby enacted as follows:-

Short title

1. (1) This Act may be called the Mysore Labour Act, 1941.

Commencement

(2) It shall come into force from .....

Extent and application.

(3) It extends to the whole of Mysore.

(4) It shall apply to all industrial undertakings whether owned by a private person or by a Government or local authority.

Recognition of association of employees.

2. (1) The right of employees in an industrial undertaking to combine into an association for the promotion of their common interests is hereby recognise and declared.

(2) The Government may on the recommendation of the Commissioner of Labour extend this right to employees in small industrial undertakings engaged in work of same nature in any local area or to employees in industrial undertaking engaged in work of same nature located in different areas.

Definitions.

3. In this Act unless there is anything repugnant in the subject or context --

(1) "Association" means an association of employees registered under this Act

(2) "Award" means any interim or final determination in an Arbitration proceeding under this Act

(3) "Board" means the Board of Conciliation appointed under this Act.

(4) "Change" means a change in any industrial matter.

(5) "Commissioner of Labour" includes an Assistant Commissioner of Labour.

(6) "Conciliation proceeding" means any proceeding held by a Conciliator or the Board under this Act.

(7) "Conciliator" means any Conciliator appointed under this Act and includes the Chief Conciliator or a Special Conciliator.

(8) "Court" means a Court of Arbitration appointed under this Act.

(9) "Employee" means any person employed to do any skilled or unskilled manual or clerical work for hire or reward in any industry and includes for the purposes of any proceedings under this Act in relation to any industrial dispute an employee discharged on account of such dispute relating to a change in respect of which a notice is given under Section 8 whether before or after the discharge.

(10) "Employer" includes--

(a) any agent of an employer;

(b) where an industry is conducted or carried on by a department of the Government, the authority prescribed in that behalf, and where no such authority has been prescribed, the head of such

department

(c) where an industry is conducted or carried on by or on behalf of a local authority, the Chief Executive Officer of such authority; or

(d) where the owner of any industry in the course of or for the purpose of conducting such industry contracts with any other person for the execution by or under the contractor of the whole or any part of any work which is ordinarily part of the said industry, the owner of such industry

(10) "Industrial dispute" means any dispute or difference between an employer and employee or employees, which is connected with any industrial matter.

(11) "Industrial matter" means any matter relating to work, pay, wages, reward, hours, privileges, rights or duties of employers or employees, or the mode terms and conditions of employment or non-employment and includes--

(a) all matters pertaining to the relationship between employers and employees, or to the dismissal or non-employment of any person;

(b) all matters as to the demarcation of functions of any employees or classes of employees;

(c) all matters pertaining to any right or claim under or in respect of or concerning an agreement, settlement or award made under this Act and

(d) all questions of what is fair and right in relation to any industrial matter having regard to the interest of the person immediately concerned and of the community as a whole.

(13) "Industrial undertakings" means a unit of industry under one employer in the same city, town or village

(14) "Industry" includes--

(a) any business, trade, manufacture or undertaking or calling of employers and

(b) any calling, service, employment, handicraft or industrial occupation or avocation of employees.

(15) "Local area means an area notified as such by the Government.

(16) "Lock-out" means the closing of a place or part of a place of employment or the total or partial suspension of work by an employer or the total or partial refusal by an employer to continue to employ persons employed by him, where such closing, suspension or refusal occurs in consequence of an industrial dispute and is intended for the purpose of compelling those persons or of aiding another employer in compelling persons employed by him to accept any term or condition of or affecting employment.

(17) "Member" means a person who is an ordinary member of an association and who is paying subscription of not less than one anna per month and the term "membership" shall be construed accordingly, and shall include an honorary member holding an office in the Association.

(18) "Prescribed" means prescribed by rules made under this Act.

(19) "Registered Agreement" means an agreement registered under Section 8.

(under A) ~~19. "Association" means an association of employees registered under this Act.~~

(20) "Registrar" means the Registrar of Associations appointed under this Act.

(21) "Schedule" means schedule appended to this Act.

(22) "Settlement" means a settlement arrive at during the course of a conciliatio proceeding

(23) "Strike" means a total or partial cessation of work by employees employed in an industry acting in combination or a concerted refusal or a refusal under a common understanding of employees to continue to work or to accept work where such cessation or refusal is in consequence of an indi trial dispute in any industry and is intended for the purpose of compelling any employer to accept any term or condition of or affecting employment.

Commissioner of Labour: his powers.

4. (1) The Government shall appoint a person as Commissioner of Labour whose juris-diction shall extend throughout the State.

(2) The Government may also appoint for any local area or otherwise one or more Assistant Commissioners of Labour who shall exercise such of the powers and perform such of the duties of the Commissioner as may be delgated by him, and subject to his control and

supervision.

(3) For the purpose of exercising his powers and performing his duties, the Commissioner may, after giving reasonable notice, enter any place used for the purpose of any industry or as the office of any Association and shall be entitled to call for and inspect all relevant documents which are necessary for the due discharge of his duties and powers under this Act. The Commissioner may for the same purpose enter, after giving reasonable notice, any premises provided by an employer for the purpose of residence of his employees. All particulars contained in or information obtained from any document inspected or called for under subsection (3) shall, if the person in whose possession the document was so requires, be treated as confidential. The Commissioner shall be entitled to appear in any proceeding under the Act and also to attend meetings of Association.

Commissioner's duties.

5. It shall be the duty of the Commissioner to help in organising association of employees in each industrial undertaking employing not less than 100 workmen, and to assist and guide the officers of such associations in the discharge of their duties and in developing the work of the associations.

Registrar of Associations Employees.

6. (1) The Government shall appoint an Officer to be Registrar of Associations of Employees in the State.

(2) He shall maintain a Register of

Associations and such other Registers as may be prescribed

(3) On receipt of an application from an association for registration and on payment of the prescribed fee, the Registrar shall, if he is satisfied that the Association fulfills the prescribed conditions, register the Association and issue a certificate of registration.

(4) Every such Registered Association shall be a Body Corporate by the name under which it has been registered and shall have perpetual succession and a common seal with power to acquire and hold both movable and immovable property and to contract, and shall by the said name sue and be sued.

Provisions to be contained in the rules of an association.

Section 6d of the [illegible]

An Association shall not be entitled to registration under this Act unless the executive thereof is constituted in accordance with the provisions of this Act, and the rules thereof provide for the following matters, namely:-

(a) the name of the Association;

(b) the whole of the objects for which the Association has been established

(c) the whole of the purposes for which the general funds of the Association shall be applicable, all of which purposes shall be purposes to which such funds are lawfully applicable under this Act;

(d) the maintenance of a list of the members of the Association and adequate facilities for the inspection thereof by the officers and members

of the Association.

(e) the admission of ordinary members who shall be members actually engaged or employed in the industrial undertaking concerned and also the condition for the admission of honorary members as officers; provided that not more than two such members shall be so admitted into any Association and provided further that no one shall be an honorary member of more than one Association at the same time.

(f) the conditions under which any member shall be entitled to any benefit assured by the rules and under which any fine or forfeiture may be imposed on the members;

(g) the manner in which the rules shall be amended, varied or rescinded;

(h) the manner in which the members of the executive and the other officers of the Association shall be appointed and removed;

(i) the safe custody of the funds of the Association, an annual audit, in such manner as may be prescribed, of the accounts thereof and adequate facilities for the inspectio of the account books by the officers and members of the Association

(j) the manner in which the Association may be dissolved and

(k) the procedure to be followed before the Association can call a strike, including a secret ballot of the members and the minimum votes necessary.

Objects on which general funds may be spent.

86. The general funds of a registered Association shall not be spent on any other objects than the following, namely:-

(a) the payment of salaries, allowances and expenses to officers of the Association

(b) the payment of expenses for the administration of the Association, including audit of the accounts of the general funds of the Associatic

(c) the prosecution or defence of any legal proceeding to which the Association or any member thereof is a party, when such prosecution or defence is undertaken for the purpose of securing or protecting any rights of the Association as such or any rights arising out of the relations of any member with his employer or with a person whom the member employs;

d) the conduct of labour disputes on behalf of the Association or any member thereof

(e) the compensation of members for loss arising out of labour disputes

(f) allowances to members or their dependents on account of death, old age, sickness, accidents or unemployment of such members;

(g) the provision of educational, or social ~~or religious~~ benefits for members (including the payment of the expenses of funeral or religious ceremonies for deceased members)

(h) subject to any conditions contained in the notification, any other object notified by the Government in the official Gazette.

Standing Orders regarding industrial matters.

(9.) (1) Within three months after the commencement of the Act, the employer in respect of every industrial undertaking employing not less than 100 workmen shall furnish the Commissioner with a statement of standing orders regulating the relations between him and his employees in respect of matters specified in Schedule I of this Act and simultaneously furnish a copy of the same in English and Kannada to the Association of Employees in his concern.

(2) The Association of Employees shall submit to the Commissioner within 15 days of such receipt any points objected to by them as inconsistent with existing practice. The Commissioner shall thereupon hold a summary enquiry on such points, settle the standing orders as found by him and furnish both to the employer and to the Association of Employees a copy of the standing orders as settled by him. send a copy of

(3) The Commissioner shall ~~record~~ the standing orders so settled to the Registrar, for registering them in a Register of Standing Orders and Agreements

4. The standing orders settled by the Commissioner of Labour under sub-section (2)

(2) shall be determinative of the relations between the employer and his employees, in all matters included therein

Employers or employees desiring change in standing orders and other industrial matters to giv notice.

10 ~~(8)~~ (1) Any employer intending to effect any change in any standing order settled under Section 9 or in respect of an industrial matter mentioned in schedule II shall give notice of such intention in the prescribed form to the Association of the employees. He shall send a copy of such notice to the Commissioner of Labour, ~~the Chief~~ Conciliator Registrar, ~~the Labour Officer~~ and to such other person as may be prescribed. He shall also affix a copy of such notice at a conspicuous place in the premises where the employees affected by the change are employed for work and at such other place as may be directed by the Chief Conciliator in any case.

(2) An Association of Employees desiring a change in any such standing order or in respect of any other industrial matter shall give notice in the form prescribed to the employer who shall also forward a copy of the notice to the Commissioner of Labour, the Chief Conciliator, the Registrar, ~~the Labour Officer~~ and to such other person as may be prescribed.

(3) The Commissioner shall ascertain within 15 days after the receipt of such notice whether the proposed change is mutually agreed to between the

relating to the claim

employer and the Association and if so agreed to, send a copy to the Registration regis. it in the Register of Agreements and inform both parties. In case of disagreement within 15 days he shall report to the (~~Registrar~~ Chief Conciliator) for initiating conciliation proceedings under the

(4) The employers and the Association shall maintain records of all negotiations with each other and shall produce such records when called upon to do so during any subsequent proceedings under the Act.

) The Registrar of Associations shall be ex-officio Chief Conciliator of the State.

(2) The Government may on the recommendation of the Chief Conciliator appoint a Special Conciliator in respect of any dispute.

(3) During the pendency of any proceedings before the Conciliator under the foregoing provisions, the Government may and if both the parties agree ~~either~~ prior to the commencement of such proceedings or after the failure of the Conciliator to bring about a settlement, shall refer the dispute to a Board of Conciliation consisting of three independent persons.

Conciliation proceedings.

(~~10~~) (1) The Conciliator or the Board shall conclude the enquiry within one month of the initiation of conciliation proceedings or the appointment of the Board as the case may be.

(2)

(2) if a settlement be reached in the conciliation proceedings, ~~the Conciliation proceedings,~~ the Conciliator or the Chairman of the Board shall send a report of proceedings with a copy of the Memorandum of Settlement to the Registrar and to both the parties.

(3) The Registrar shall record the settlement in the Register of agreements

(4) Where the parties do not come to a settlement, the Conciliator or the Board shall submit a report to Government through the Chief Conciliator and such report shall be published in the official gazette not later than the second issue after the date of receipt of the report.

Court of Arbitration and proceedings in Arbitration.

13

(1) The Government may constitute Court of Arbitration for determining industrial disputes.

(2) At any time during the progress of the conciliation proceedings, the employer and the Association of employees concerned may jointly apply to the Chief Conciliator for referring the point in dispute to arbitration, forthwith.

(3) The Chief Conciliator shall thereupon submit the application to the Government who shall refer it to the Court of Arbitration or to the Sole Arbitrator, if one is mentioned in the application

(4) The Court of Arbitration or the Sole arbitrator shall certify its or his award to the Registrar and to the parties in dispute

(5) The Registrar shall record the Award in the Register of Agreements.

(6) The Award shall be binding on the parties to the dispute and on their successors and assigns and shall not be called in question in any Civil or Criminal Court or other judicial proceedings.

No notice of change under section 8 shall b given in respect of a matter settled

(a) by an agreement or settlement within si months from its registration and

(b) an award, within a year from its registration,

provided that by consent of both parties an agreement to modify any such agreement, settlement or award, may be registered at any time.

Nature of proceedings before Conciliator and Court.

15 ~~12.~~ All proceedings before the Commissioner of Labour or a Conciliator or a Board or a Sole Arbitrator shall be confidential. Proceedings before a Court of Arbitration shall be public except where the Court directs its sittings to be in camera

Com..ssioner, Conciliator and member of Board to be public servants.

The Commissioner, an Assistant Commissione: a Conciliator, every member of the Board of -- Conciliation and Sole Arbitrator and every memb of the Court of Arbitration shall be deemed to be a public servant within the meaning of -- section 21, Indian Penal Code,

Penalty for obstructing any person from carrying out his duties under this Act.

Any person who wilfully refuses entry to the Commissioner to any place which he is -- entitled to enter under section 4 or who fails to produce any document which he is required to produce, or who fails to comply with any requisition or order issued to him by or under the provisions of this Act shall, on conviction be punishable with fine which may extend to Rs.100/- and in respect of a continuing failure, with an additional fine of Rs.25/- per day for every day during which such failure continues after the last conviction for such failure.

Procedure befor Commissioner, Conciliator and Court

(1) In respect of every proceeding before them, the Conciliator, the Board of Conciliation, the Sole Arbitrator and the Court of Arbitration shall have the same powers as are vested in Courts under the Code of Civil Procedure, in respect of the following matters when trying a suit:-

summoning and enforcing the attendance of any person and examining him an oath;

(b) compelling the production of documents;

(c) issuing commissions for the examination of witnesses;

(d) proof of facts by affidavits and shall have such further powers as may be prescribed.

(2) (a) Every proceeding before a Court of Arbitration shall be deemed to be a judicial proceeding within the meaning of sections 192, 193 and 228, Indian Penal Code, and within the meaning of the Mysore Contempts of Courts Act

(b) Parties before the Court of Arbitration may be represented by Counsel.

(3) There shall be no award of costs in any proceeding under the Act.

Information furnished by a party to be treated as confidential.

(1). If a party to an industrial dispute giving any information or producing any document in any proceeding under the Act makes a request in writing to the Conciliator, the Board or the Court, as the case may be, that such information or the contents of such document may be treated as confidential, the Conciliator, the Board or the Court shall direct that such information or document be treated as confidential.

(2). The Conciliator or any member of the or Court or any person present at or concerned

in any proceeding under the Act shall not disclose any information or the contents of any document in respect of which a request has been made under sub-section (1) without the consent in writing of the party making the request under the said sub-section.

(3) Nothing in this section shall apply to disclosure of any information or the contents of document for the purpose of a prosecution er this Act or under any other law for the time being in force.

Penalty for disclosing confidential information. 20 ~~17~~.

If a Conciliator or a member of a Board or Court or any person present at or concerned in any proceeding under the Act wilfully discloses any information or the contents of any document in contravention of this Act, he shall, on a complaint made by the party who gave the information or produced the document in such proceeding and on conviction, be punishable with fine which may extend to Rs.1,000.

(1) No employer shall make any change in any industrial matter in regard to which a standin order has been settled under section 9 or which is mentioned in Schedule II before the agreement referred to in sub-section 2 of section 10 is arrived at or where no such agreement is arrived at before the conciliation proceedings are completed or in cases where the dispute is referred to Arbitration, before the award has been given.

(2) No employer shall make any such change in contravention of the terms of a registered agreement, a settlement or an award.

(3) Any change made in contravention of the provisions of sub-section (1) or (2) shall be

illegal.

Penalty for illegal changes.

22 (19) (1) Any employer who makes any illegal change shall, on convictio punishable with fine which may extend to Rs.5,000 and in the case of continuing offence with an additional fine whic may extend to Rs.200 per day for every day durin which the offence continues after his last conviction for such offence.

(2) An employer who acts in contravention of a standing order settled under section 9 shall, (conviction, be punishable with fine which may extend to Rs.100 and in the case of a continuing -- contravention of such standing order, with an -- additional fine which may extend to Rs.25 per day for every day during which such contravention -- continues after his last conviction for such contraventio..

Employer not to dismiss, reduce or punish ~~any~~ an employee for

(1) No employer shall dismiss or reduce any -- employee or punish him in any other manner by reason of the circumstances that the employee--

(a) is an officer or member of a registered Association or of an Association which has applied for being registered under this Act; or

(b) is entitled to the benefit of a registere agreement, settlement or award; or

(c) has appeared or intends to appear as a witness or has given evidence or intend to give evidence in a proceeding under this Act; or

(d) has gone on or joined a strike which is not illegal under the provisions of this Act.

(2) Whoever contravenes the provisions of sub-section (1) shall, on conviction, be punishable with fine which may extend to Rs. 1,000.

(3) Where the offence is one of wrongful dismissal, the Court shall direct that the -- employer shall pay the dismissed employee wages for the period he is kept out of employment,

based on his average wages for the twelve months preceding the date of dismissal.

wrongful reduction or other punishment

where the offence is of

(3) ~~the Court trying any offence under this~~ section may direct that out of the fine recovered, such amount as it deems fit shall be paid to the employee concerned as compensation, ~~in cases of reduction or other punishment~~.

Illegal strikes & lock-outs.

24 [21]

A strike or a lock-out shall be illegal which has any object other than or in addition to the furtherance of an industrial dispute within the industrial undertaking in which the strikers or employer locking-out are engaged.

Illegal strikes.

1) A strike shall be illegal if it is commenced or continued--

(a) without giving notice in accordance with the provisions of section 8, and before the initiation of conciliation proceedings where an agreement is not arrived at;

b) only for the reason that the employer has not carried out the provisions of any standing order or has made an illegal change;

(b) in cases where conciliation proceedings in regard to the industrial dispute to which the strike relates have commenced, before the expiry of 14 days after the publication of the Report.

(d) in case where the dispute has been referred to Arbitration before an award has been given.

(e) in contravention of the terms of a registered agreement, settlement or award.

(2) In cases where conciliation proceedings in regard to any industrial dispute have been completed, a strike relating to such dispute shall be illegal if it is commenced at any time after the expiry of two months after the publication of the Report.

llegal lock-outs.

1) A lock-out shall be illegal if it is declar... commenced or continued--

a) without giving notice in accordance with the provisions of section 8, and before the initiation of conciliation proceedings where an agreement is not arrived at;

(b) in cases where conciliation proceedings in regard to the industrial dispute to which the lock-out relates have commenc before the expiry of 14 days after publication of the report.

(c) in cases where the dispute has been referred to Arbitration, before an Award has been given.

(d) in contravention of the terms of a registered agreement, settlement or award.

(2) In cases where conciliation proceedings in regard to any industrial dispute have been completed, a lock-out relating to such dispute shall be illegal if it is commenced at any time after the expiry of two months after the publication of the Report.

Penalty for declaring illegal lock out.

Any employer who has declared a lock-out and continues it after it has been declared by the Registrar to be illegal shall, on conviction, be punishable with fine which may extend to Rs.2,500 and shall, in addition, be directed by the Court to pay the employees kept out of employment by such lock-out, wages for the period they are so kept out, based on the average earned by each employee during the twelve months preceding the commencement of the lock-out.

Penalty for declaring or commencing an illegal strike.

Any employee who has gone on strike and continues to be on strike or who joins a strike, after it has been declared by the Registrar to be illegal shall, on conviction, be punishable with imprisonment of either description for a term which may extendto 15 days or fine which may extend to Rs.25 and in the case of a continuing offence with an additional fine which may extend to Re.1/- per day for every day during which the offence continues after his last conviction for such offence, subject to a maximum of Rs.50/-.

Penalty for instigation &c., illegal ~~strikers~~ strikes and lock-outs.

29 (29. (a) If any person instigates or incites others to take part in, or otherwise acts in furtherance of, a strike or lock-out which is declared to be illegal by the Registrar, whether such strike or lock-out has commenced or not, he shall, on conviction, be punishable with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Explanation:- For the purpose of this section, a person who contributes, collects or solicits funds for the purpose of any such strike or lock-out shall be deemed to act in furtherance thereof.

(b) Any person who instigates or incites an employer or an employee to secure relief in respect of an industrial matter, otherwise than through the provisions of this Act, shall, on conviction, be punishable with imprisonment of either description for a term which may extend to three months with fine or with both.

executive of an association.

Where anything is required to be done by any association by or under any provision of this Act, the person authorised in this behalf by the executive of the association or if no person is so authorised every member of the executive of the association shall be bound to do the same and shall be personally liable if default is made in the doing of any such thing.

Explanation:- For the purpose of this section, executive of an association means the body by whatever name called to which the management of the affairs of the association is entrusted.

Certain Acts not to apply to associations.

31 31. The following Acts, namely:-

(a) The Mysore Societies Registration Act.

(b) The Mysore Co-operative Societies Act.

(c) The Mysore Companies Act and

(d) The Mysore Insurance Act,

shall not apply to any Registered Association and the registration of any Association of Industrial Employees under any such Act shall b void.

32

No organisation of employees other than those constituted under this Act shall be recognised or permitted to be represented in any proceedings under this Act.

Persons acting in good faith not to be sued. 33 (30)

No suit or proceeding shall lie against any person for anything which is in good faith don or intended to be done under this Act.

Immunity from civil suit in certain cases. 34 34(1)

No suit or other legal proceeding shall be maintainable in any Civil Court against any registered Association or any officer or member thereof in respect of any act done in contemplation or furtherance of an industrial dispu to which a member of the Association is a par on the ground only that such act induces some other person to break a contract of employment or that it is in interference with the industry, business or employment of some other person or with the right of some other person to dispose of his capital or of his labour as he wills.

A registered Association shall not be liable in any suit or other legal proceeding in any Civil Court in respect of any tortious act done in contemplation or furtherance of an industrial dispute by an agent of the Association if it is proved that such person acted without the knowledge of, or contrary to express instructions given by, the executive of the Association.

Enforcement of agreements. 35 (35)

Notwithstanding anything contained in any other law for the time being in force, an agreement between the members of a registered

Association shall not be void or voidable merely by reason of the fact that any of the objects of the agreement are in restraint of trade.

Provided that nothing in this section shall enable any Civil Court to entertain any legal proceeding instituted for the express purpose of enforcing or recovering damages for the breach of any agreement concerning the conditions on which any members of an Association shall or shall not work, or be employed.

Jurisdiction of Court.

No Court inferior to that of a Magistrate of the First Class shall try offences under the Act.

Rules.

(1) The Government may make Rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may be made for all or any of the following matters namely:-

(a) the form in which the certificate of registration may be issued;

(b) the constitution of a Board or Court and the qualifications for a Special Conciliator, or member of a Board or of the Court;

(c) the fee to be paid on applications under the Act;

(d) the manner in which the total number of employees is to be computed for the purposes of this Act;

(e) the other powers of the several Authorities under section 15;

(f) the manner in which standing orders may be submitted under section 9;

(g) the form in which notice of change is to be given and the persons to whom copies of such notice are to be sent under section 8; 10

(h) the form in which a statement of the case is to be forwarded to a Special Conciliator, Board or Court or sole arbitrator,

(i) the procedure to be followed by the several Authorities under the Act;

(j) the registers to be maintained by the employer, and the returns and the information to be periodically furnished by him to the Commissioner of Labour or other Authorities for the purposes of this Act;

) the officers to be deemed as employers in respect of industrial undertakings owned by the Government; and,

) the form in which the memorandum of agreement, settlement or the award shall be drawn up and the manner in which it shall be recorded and published by the Registrar.

(3) The Government may also prescribe a fine not exceeding one hundred rupees for a breach of any such rule.

(4) The rules made under this section shall be subject to the condition of previous publication in the Official Gazette.

SCHEDULE I.

(Section 9.)

1. Classification of employees, e.g., permanent, temporary, apprentices, probationers, etc.

2. Manner of notification to employees of periods and hours of work, holidays, pay days and wage rates.

3. Shift working.

4. Attendance and late coming.

5. Leave and holidays, conditions, procedure and authority to grant.

6. Liability to search and entry into premises by certain gates.

7. Temporary stoppages of work and rights and liabilities of employers and employees arising therefrom.

8. Termination of employment. Notices to be given by employer and employee.

9. Punishment for misconduct and the acts or omissions which constitute misconduct.

10. Means of redress for employees against unfair treatment or wrongful exaction on the part of the employer or his agent or servant.

11. Rules of discipline.

Schedule II.

(Section ~~8.~~) 10

I. Reduction intended to be of permanent or semi-permanent character in the number of persons employed or to be employed not due to force majeure.

~~2. Demands for permanent or semi-permanent increase in the number of persons employed or to be employed in any Department or Departments.~~

~~3. Dismissal of any employee except in accordance with law or as provided for in the standing orders framed under section 9 of this Act.~~

2 ~~4.~~ Introduction of rationalisation, efficiency or other new systems of work.

3 ~~5.~~ Starting, alteration or discontinuance of shift working otherwise than in accordance with the standing orders.

4 ~~6.~~ Withdrawal of any customary concession or privilege or change in usage.

5 ~~7.~~ Wages and total weekly hours of work.

to the Supdt. Govt. Printing, Bangalore.

D 362
d. 22-7-41

Labour Legislation Committee.

DRAFT REPORT.

We have discussed the general principles of Labour Legislation and also the Draft Bill placed before us to focus discussion. We have effected various changes in the bill in order to embody the common measure of agreement among us. The bill, as revised, is appended and has our unanimous approval. It embodies, in our opinion, a workable scheme.

The Members representing labour requested that in view of the general agreement in the Committee, the Government might be moved to enact this measure as a piece of emergency legislation, the provisions excepting ~~those~~ relating to Standing Orders, which require time for being brought into effect. The other members of the Committee have no objection to the suggestion being acted upon, if the Government finding that such action is possible.

Please [illegible] and supply 25 copies immediately. and meanwhile type may be substituted wherever "this is required, except the words" in Canara" appearing page 11 para 15.

The type may be kept standing until further orders.

[illegible]
Leg. Lab. Legis. C.
22.7.41.

Draft of Mysore Labour Bill.

WHEREAS it is expedient to make provision for the promotion of peaceful and amicable settlement of industrial disputes by conciliation and arbitration and the organisation of industrial employees into associations to secure their welfare, and for certain other purposes, hereinafter provided, it is hereby enacted as follows:—

1. (1) This Act may be called the Mysore Labour Act, 1941. Short title.

(2) It shall come into force from..... Commencement.

(3) It extends to the whole of Mysore. Extent and application.

(4) It shall apply to all industrial undertakings whether owned by a private person or by a Government or local authority.

2. (1) The right of employees in an industrial undertaking to combine into an association for the promotion of their common interests is hereby recognised and declared. Recognition of association of employees.

(2) The Government may on the recommendation of the Commissioner of Labour extend this right to employees in small *industrial undertakings engaged in work of same nature* in any local area or to *employees in industrial undertaking engaged in work of same nature* located in different areas.

3. In this Act unless there is anything repugnant in the subject or context— Definitions.

(1) "Association" means an association of employees registered under this Act.

(2) "Award" means any interim or final determination *in an* Arbitration *proceeding* under this Act.

(3) "Board" means the Board of Conciliation appointed under this Act.

(4) "Change" means a change in any industrial matter.

(5) "Commissioner of Labour" includes an Assistant Commissioner of Labour.

(6) "Conciliation proceeding" means any proceeding held by a Conciliator or the Board under this Act.

(7) "Conciliator" means any Conciliator appointed under this Act and includes the Chief Conciliator or a Special Conciliator.

(8) "Court" means a Court of Arbitration appointed under this Act.

(9) "Employee" means any person employed to do any skilled or unskilled manual or clerical work for hire or reward in any industry and includes *for the purposes of any proceedings under this Act in relation to any industrial dispute* an employee discharged on account of *such* dispute relating to a change in respect of which a notice is given under Section 18 whether before or after the discharge.

(10) "Employer" includes—

(*a*) any agent of an employer;

(*b*) where an industry is conducted or carried on by a department of the Government, the authority prescribed in that behalf, and where no such authority has been prescribed, the head of such department;

(*c*) where an industry is conducted or carried on by or on behalf of a local authority, the Chief Executive Officer of such authority; or

(*d*) where the owner of any industry in the course of or for the purpose of conducting such industry contracts with any other person for the execution by or under the contractor of the whole or any part of any work which is ordinarily part of the said industry, the owner of such industry.

(11) "Industrial dispute" means any dispute or difference between an employer and employee or employees, which is connected with any industrial matter.

(12) "Industrial matter" means any matter relating to work, pay, wages, reward, hours, privileges, rights or duties of employers or employees, or the mode, terms and conditions of employment or non-employment and includes—

(*a*) all matters pertaining to the relationship between employers and employees, or to the dismissal or non-employment of any person;

(*b*) all matters as to the demarcation of functions of any employees or classes of employees;

(*c*) all matters pertaining to any right or claim under or in respect of or concerning an agreement, *settlement* or award made under this Act, and —

(*d*) all questions of what is fair and right in relation to any industrial matter having regard to the interest of the person immediately concerned and of the community as a whole.

(13) "*Industrial undertaking*" *means a unit of industry under one employer in the same city, town or village.*

(14) "Industry" includes—

(*a*) any business, trade, manufacture or undertaking or calling of employers; and

(*b*) any calling, service, employment, handicraft or industrial occupation or avocation of employees.

(15) "Local area" means an area notified as such by the Government.

(16) "Lock-out" means the closing of a place or part of a place of employment or the total or partial suspension of work by an employer or the total or partial refusal by an employer to continue to employ persons employed by him, where such closing, suspension or refusal occurs in consequence of an industrial dispute and is intended for the purpose of compelling those persons or of aiding another employer in compelling persons employed by him to accept any term or condition of or affecting employment.

(17) "Member" means a person who is an ordinary member of an association and who *is paying* subscription of not less than one anna per month and the term "membership" shall be construed accordingly, *and shall include an honorary member holding an office in the Association.*

(18) "Prescribed" means prescribed by rules made under this Act.

(19) "Registered Agreement" means an agreement registered under Section 8.

(20) "Registrar" means the Registrar of Associations appointed under this Act.

(21) "Schedule" means schedule appended to this Act.

(22) "Settlement" means a settlement arrived at during the course of a conciliation proceeding.

(23) "Strike" means a total or partial cessation of work by employees employed in an industry acting in combination or a concerted refusal or a refusal under a

common understanding of employees to continue to work or to accept work where such cessation or refusal is in consequence of an industrial dispute in any industry *and is intended for the purpose of cempelling any employer to accept any term or condition of or affecting employment.*

Commissioner of Labour : his powers.

4. (1) The Government shall appoint a person as Commissioner of Labour whose jurisdiction shall extend throughout the State.

(2) The Government may also appoint for any local area or otherwise one or more Assistant Commissioners of Labour who shall exercise such of the powers and perform such of the duties of the Commissioner as may be delgated by him, and subject to his control and supervision.

(3) For the purpose of exercising his powers and performing his duties, the Commissioner may, after giving reasonable notice, enter any place used for the purpose of any industry or as the office of any Association and shall be entitled to call for and inspect all relevant documents which are necessary for the due *discharge of his duties and powers under this Act.* The Commissioner may for the same purpose enter, after giving reasonable notice, any premises provided by an employer for the purpose of residence of his employees.

(4) All particulars contained in or information obtained from any document inspected or called for under sub-section (3) shall, if the person in whose possession the document was, so requires, be treated as confidential.

(5) The Commissioner shall be entitled to appear in any proceeding under the Act *and also to attend meetings of Associations*

Commissioner's duties.

5. It shall be the duty of the Commissioner to help *in* organising association of employees in each industrial undertaking employing not less than 100 workmen, and to assist and guide the officers of such associations in the discharge of their duties and in developing the work of the associations.

Registrar of Associations of Employees.

6. (1) The Government shall appoint an officer to be Registrar of Associations of Employees in the State.

(2) He shall maintain a Register of Associations and such other Registers as may be prescribed.

(3) On receipt of an application from an association for registration and on payment of the prescribed fee, the Registrar shall, if he is satisfied that the Association

fulfils the prescribed conditions, register the Association and issue a certificate of registration.

(4) Every such Registered Association shall be a Body Corporate by the name under which it has been registered and shall have perpetual succession and a common seal with power to acquire and hold both movable and immovable property and to contract, and shall by the said name sue and be sued.

Provisions to be contained in the rules of an association.

7. An association shall not be entitled to registration under this Act unless the executive thereof is constituted in accordance with the provisions of this Act, and the rules thereof provide for the following matters, namely,—

(*a*) the name of the Association;

(*b*) the whole of the objects for which the Association has been established;

(*c*) the whole of the purposes for which the general funds of the Association shall be applicable, all of which purposes shall be purposes to which such funds are lawfully applicable under this Act;

(*d*) the maintenance of a list of the members of the Association and adequate facilities for the inspection thereof by the officers and members of the Association;

(*e*) the admission of ordinary members who shall be members actually engaged or employed in the industrial undertaking concerned and also the condition for the admission of honorary members as officers; provided that not more than two such members shall be so admitted into any Association and provided further that no one shall be an honorary member of more than one Association at the same time;

(*f*) the conditions under which any member shall be entitled to any benefit assured by the rules and under which any fine or forfeiture may be imposed on the members;

(*g*) the manner in which the rules shall be amended, varied or rescinded;

(*h*) the manner in which the members of the executive and the other officers of the Association shall be appointed and removed;

(*i*) the safe custody of the funds of the Association, an annual audit, in such manner as may be prescribed, of the accounts thereof and adequate facilities for the inspection of the account books by the officers and members of the Association.

(*j*) the manner in which the Association may be dissolved and

(*k*) the procedure to be followed before the Association can call a strike, including a secret ballot of the members and the minimum votes necessary.

Objects on which general funds may be spent.

8. The general funds of a registered Association shall not be spent on any other objects than the following namely :—

(*a*) the payment of salaries, allowances and expenses to officers of the Association ;

(*b*) the payment of expenses for the administration of the Association, including audit of the accounts of the general funds of the Association ;

(*c*) the prosecution or defence of any legel proceeding to which the Association or any member thereof is a party, when such prosecution or defence is undertaken for the purpose of securing or protecting any rights of the Association as such or any rights arising out of the relations of any member with his employer or with a person whom the member employs ;

(*d*) the conduct of labour disputes on behalf of the Association or any member thereof ;

(*e*) the compensation of members for loss arising out of labour disputes ;

(*f*) allowances to members or their dependents on account of death, old age, sickness, accidents or unemployment of such members ;

(*g*) the provision of educational or social benefits for members (including the payment of the expenses of funeral or religious ceremonies for deceased members) ;

(*h*) subject to any conditions contained in the notification, any other object notified by the Government in the official Gazette.

Standing Orders regarding industrial matters.

9. (1) Within three months after the commencement of the Act, the employer in respect of every industrial undertaking employing not less than 100 workmen shall furnish the Commissioner with a statement of standing orders *regulating the relations between him and his employees* in respect of matters specified in Schedule I of this Act and simultaneously furnish a copy of the same in English and Kannada to the Association of Employees in his concern.

(2) *The Association of Employees shall submit to the Commissioner within 15 days of such receipt any points objected to by them as inconsistent with existing*

practice. The Commissioner shall *thereupon* hold a summary enquiry on *such* points, *settle the standing orders as found by him* and furnish both to the employer and to the Association of Employees a copy of the standing orders as settled by him.

(3) The Commissioner shall send a copy of standing orders so settled to the Registrar, for registering them in a Register of Standing Orders and Agreements.

(4) The standing orders settled by the Commissioner of Labour under sub-section (2) shall be determinative of the relations between the employer and his employees, in all matters *included therein.*

Employers or employees desiring change in standing orders and other industri[illegible] to

10. (1) Any employer intending to effect any change in any standing order settled under section 9 or in respect of an industrial matter mentioned in schedule II shall give notice of such intention in the prescribed form to the Association of the Employees. He shall send a copy of such notice to the Commissioner of Labour, the Chief Conciliator, the Registrar, and to such other person as may be prescribed. He shall also affix a copy of such notice at a conspicuous place in the premises where the employees affected by the change are employed for work and at such other place as may be directed by the Chief Conciliator in any case.

(2) An Association of Employees desiring a change in any such standing order or in respect of any other industrial matter shall give notice in the form prescribed to the employer who shall also forward a copy of the notice to the Commissioner of Labour, the Chief Conciliator, the Registrar, and to such other person as may be prescribed.

(3) The Commissioner shall ascertain within 15 days after the receipt of such notice whether the proposed change is mutually agreed to between the employer and the Association and if so agreed to, send *a* copy relating to the change to the Registrar for registering it in the Register of Agreements and inform both parties. In case of disagreement *within 15 days,* he shall *report to the Chief Conciliator for initiating conciliation proceedings* under the Act.

(4) The employers and the Association shall maintain records of all negoitations with each other and shall produce such records when called upon to do so during any subsequent proceedings under the Act.

Conciliators and Board of Conciliation.

11. (1) The Registrar of Associations shall be *ex-officio* Chief Conciliator of the State.

(2) The Government may on the recommendation of the Chief Conciliator appoint a Special Conciliator in respect of any dispute.

(3) During the pendency of any proceedings before the Conciliator under the foregoing provisions, the Government may, and if both the parties agree either prior to the commencement of such proceedings or after the failure of the Concilator to bring about a settlement, shall refer the dispute to a Board of Conciliation consisting of three independent persons.

Conciliation proceedings.

12. (1) The Conciliator or the Board shall *conclude* the enquiry within one month of the initiation of conciliation proceedings or the appointment of the Board as the case may be.

(2) If a settlement be reached in the conciliation proceedings, the Conciliator or the Chairman of the Board shall send a report of proceedings with a copy of the Memorandum of Settlement to the Registrar and to both the parties.

(3) The Registrar shall record the settlement in the Register of agreements.

(4) Where the parties do not come to a settlement, the Conciliator or the Board shall submit a report to Government through the Chief Conciliator and such report shall be published in the official Gazette *not later than the second issue after the date of receipt of the report.*

Court of Arbitration and proceedings in Arbitration.

13. (1) The Government may constitute a Court of Arbitration for determining industrial disputes.

(2) At any time during the progress of the conciliation proceedings, the employer and the Association of employees concerned may jointly apply to the Chief Conciliator for referring the point in dispute to arbitration, forwith.

(3) Tne Chief Conciliator shall thereupon submit the application to the Government who shall refer it to the Court of Arbitration *or to the Sole Arbitrator, if one is mentioned in the application.*

(4) The Court of Arbitration or the Sole Arbitrator shall certify its or his award to the Registrar and to the parties in dispute.

(5) The Registrar shall record the Award in the Register of Agreements.

(6) The Award shall be binding on the parties to the dispute and on their successors and assigns and shall not be called in question in any Civil or Criminal Court or other judicial proceedings.

14. No notice of change under section 8 shall be given in respect of a matter settled,

(*a*) by an agreement or settlement within six months from its registration, and

(*b*) an award, within a year from its registration,

provided that by consent of both parties an agreement to modify any such agreement, settlement or award, may be registered at any time

Nature of proceedings before Conciliator and Court.

15. All proceedings before the Commissioner of Labour or a Conciliator or a Board or a *Sole Arbitrator* shall be confidential. Proceedings before a Court of Arbitration shall be public except where the Court directs its sittings to be *in camera*.

Commissioner, Conciliator and member of Board to be public servants.

16. The Commissioner, an Assistant Commissioner, a Conciliator, every member of the Board of Conciliation and Sole Arbitrator and every member of the Court of Arbitration shall be deemed to be a public servant within the meaning of section 21, Indian Penal Code.

Penalty for obstructing any person from carrying out his duties under this Act.

17. Any person who wilfully refuses entry to the Commissioner to any place which he is entitled to enter under section 4 or who fails to produce any document which he is required to produce, or who fails to comply with any requisition or order issued to him by or under the provisions of this Act shall, on conviction, be punishable with fine which may extend to Rs. 100 *and in respect of a continuing failure, with an additional fine of Rs. 25 per day for every day during which such failure continues after the last conviction for such failure.*

Procedure before the Conciliator and Court.

18. (1) In respect of every proceeding before them, the conciliator, the Board of Conciliation, the Sole Arbitrator and the Court of Arbitration shall have the same powers as are vested in Courts under the Code of Civil Procedure, in respect of the following matters when trying a suit :—

(*a*) summoning and enforcing the attendance of any person and examining him on oath ;

(*b*) compelling the production of documents ;

(*c*) issuing commissions for the examination of witnesses ;

(*d*) proof of facts by affidavits ; and shall have such further powers as may be prescribed.

(2) (*a*) Every proceeding before a Court of Arbitration shall be deemed to be a judicial proceeding within the meaning of Sections 192, 193 and 228, Indian Peneal Code and within the meaning of Mysore Contempts of Courts Act.

(*b*) *Parties before the Court of Arbitration may be represented by Counsel.*

(3) There shall be no award of costs in any proceeding under the Act.

Information furnished by a party to be treated as confidential.

19. (1) If a party to an industrial dispute giving any information or producing any document in any proceeding under the Act makes a request in writing to the Conciliator, the Board or the Court, as the case may be, that such information or the contents of such document may be treated as confidential, the Conciliator, the Board or the Court shall direct that such information or document be treated as confidential.

(2) The Conciliator or any member of the Board or Court or any person present at or concerned in any proceeding under the Act shall not disclose any information or the contents of any document in respect of which a request has been made under sub-section (1) without the consent in writing of the party making the request under the said sub-section.

(3) Nothing in this section shall apply to disclosure of any information or the contents of any document for the purpose of a prosecution under this Act or under any other law for the time being in force.

Penalty for disclosing confidential information.

20. If a Conciliator or a member of a Board or Court or any person present at or concerned in any proceeding under the Act wilfully discloses any information or the contents of any document in contravention of this Act, he shall, on a complaint made by the party who gave the information or produced the document in such proceeding and on conviction, be punishable with fine which may extend to Rs. 1,000.

Illegal changes.

21. (1) No employer shall make any change in any industrial matter in regard to which a standing order has been settled under section 9 or which is mentioned in Schedule II before the agreement referred in sub-section 2 of section 10 is arrived at or where no such agreement

is arrived at before the conciliation proceedings are completed or in cases where the dispute is referred to Aribitration, before the award has been given.

(2) No employer shall make any such change in contravention of the terms of a registered agreement, a settlement or an award.

(3) Any change made in contravention of the provisions of sub-section (1) or (2) shall be illegal.

Penalty for illegal changes.

22. (1) Any employer who makes any illegal change shall, on conviction, be punishable with fine which may extend to Rs. 5,000 and in the case of a continuing offence with an additional fine which may extend to Rs. 200 per day for every day during which the offence continues after his last conviction for such offence.

(2) An employer who acts in contravention of a standing order settled under section 9 shall, on conviction, be punishable with fine which may extend to Rs. 100 and in the case of continuing contravention of such standing order, with an additional fine which may extend to Rs. 25 per day for every day during which such contravention contiues after his last conviction for such contravention.

Employer not to dismiss, reduce or punish an e for b conn witn assoc

23. (1) No employer shall dismiss or reduce any employee or punish him in any other manner by reason of the circumstances that the employee—

(*a*) is an officer or member of a registered Association or of an Association which has applied for being registered under this Act ; or

(*b*) is entitled to the benefit of a registered agreement, settlement or award ; or

(*c*) has appeared or intends to appear as a witness or has given evidence or intends to give evidence in a proceeding under this Act ; or

(*d*) has gone on or joined a strike which is not illegal under the provisions of this Act.

(2) Whoever contravenes the provisions of sub-section (1) shall, on conviction, be punishable with fine which may extend to Rs. 1,000.

(3) Where the offence is one of wrongful dismissal, the Court shall direct that the employer shall pay the dismissed employee wages for the period he is kept out of employment, based on his average wages for the twelve months preceding the date of dismissal.

(4) Where the offence is one of wrongful reductions or other punishment, the Court trying any offence under

this section may direct that out of the fine recovered, such amount as it deems fit shall be paid to the employee concerned as compensation.

Illegal strikes and lock-outs.

24. A strike or a lock-out shall be illegal which has any object other than or in addition to the furtherance of an *industrial* dispute within the *industrial undertaking* in which the strikers or employer locking-out are engaged.

Illegal strikes.

25. (1) A strike shall be illegal if it is commenced or continued—

(*a*) without giving notice in accordance with the provisions of section 8, and before the initiation of conciliation proceedings where *an agreement* is not arrived at;

(*b*) only for the reason that the employer has not carried out the provisions of any standing order or has made an illegal change;

(*c*) in cases where conciliation proceedings in regard to the industrial dispute to which the strike relates have commenced, before the expiry of 14 days after the publication of the Report.

(*d*) in case where the dispute has been referred to arbitration before an award has been given.

(*e*) in contravention of the terms of a registered agreement, settlement or award.

(2) In cases where conciliation proceedings in regard to any industrial dispute have been completed, a strike relating to such dispute shall be illegal if it is commenced at any time after the expiry of two months after the publication of the Report.

Illegal lock-outs.

26. (1) A lock-out shall be illegal if it is declared commenced or continued—

(*a*) without giving notice in accordance with the provisions of section 8, and before the initiation of conciliation proceedings where an agreement is not arrived at;

(*b*) in cases where conciliation proceedings in regard to the industrial dispute to which the lock-out relates have commenced before the expiry of 14 days after publication of Report.

(*c*) in cases where the dispute has been referred to arbitration, before *an award has been given*.

(*d*) in contravention of the terms of a registered agreement, settlement or award.

(2) In cases where conciliation proceedings in regard to any industrial dispute have been completed, a lock-out relating to such dispute shall be illegal if it is commenced at any time after the expiry of two months after the *publication of the Report.*

Penaly for declaring illegal lock out.

27. Any employer who has declared a lock-out and continues it after it has been declared by the Registrar to be illegal shall, on conviction, be punishable with fine which may extend to Rs. 2,500 and shall, in addition, be directed by the Court to pay the employees kept out of employment by such lock-out, wages for the period they are so kept out, based on the average earned by each employee during the twelve months preceding the commencement of the lock-out.

Penalty for declaring or commencing an illegal strike.

28. Any employee who has gone on strike *and continues to be on strike* or who joins a strike, after it has been declared by the Registrar to be illegal shall, on conviction, be punishable with imprisonment of either description for a term which may extend to 15 days or fine which may extend to *Rs. 25 and in the case of a continuing offence with an additional fine which may extend to Re. 1 per day for every day during which the offence continues after his last conviction for such offence subject to a maximum of Rs. 50.*

Penalty for instigation, etc., illegal strikes and lock-outs.

29. (*a*) If any person instigates or incites others to take part in, or otherwise, acts in furtherance of, a strike or lock-out which is declared to be illegal by the Registrar, whether such strike or lock-out has commenced or not, he shall, on conviction, be punishable with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Explanation.—For the purpose of this section, a person who contributes, collects or solicits funds for the purpose of any such strike or lock-out shall be deemed to act in furtherance thereof.

(*b*) *Any person who instigates or incites an employer or an employee to secure relief in respect of an industrial matter, otherwise than through the provisions of this Act, shall on conviction, be punishable with imprisonment of either description for a term which may extend to three months with fine or with both.*

Liability of the executive of an association.

30. Where anything is required to be done by any association by or under any provision of this Act, the person authorised in this behalf by the executive of the

association or if no person is so authorised every member of the executive of the association shall be bound to do the same and shall be personally liable if default is made in the doing of any such thing.

Explanation.—For the purpose of this section, cutive of an association means the body by whatever name called to which the management of the affairs of the association is entrusted.

Certain Acts not to apply to Associations.

31. The following Acts, namely :—

(*a*) The Mysore Societies Registration Act,
(*b*) The Mysore Co-operative Societies Act,
(*c*) The Mysore Companies Act and
(*d*) The Mysore Insurance Act,

shall not apply to any Registered Association and the registration of any Association of Industrial Employees under any such Act shall be void.

32. *No organisation of employees other than those constituted under the Act shall be recognised or permitted to be represented in any proceedings under this Act.*

Persons acting in good faith not be sued.

33. No suit or proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Immunity for civil suit in certain cases.

34. (1) No suit or other legal proceeding shall be maintainable in any Civil Court against any registered Association or any officer or member thereof in respect of any act done in contemplation or furtherance of an industrial dispute to which a member of the Association is a party on the ground only that such act induces some other person to break a contract of employment, or that it is in interference with the industry, business or employment of some other person or with the right of some other person to dispose of his capital or of his labour as he wills.

(2) A registered Association shall not be liable in any suit or other legal proceeding in any Civil Court in respect of any tortious act done in contemplation or furtherance of an industrial dispute by an agent of the Association if it is proved that such person acted without the knowledge of, or contrary to express instructions given by the executive of the Association.

Enforcement of agreements.

35. Notwithstanding anything contained in any other law for the time being in force, an agreement between the members of a registered Association shall not

be void or voidable merely by reason of the fact that any of the objects of the agreement are in restraint of trade.

Provided that nothing in this section shall enable any Civil Court to entertain any legal proceeding instituted for the express purpose of enforcing or recovering damagas for the breach of any agreement concerning the conditions on which any members of an Association shall or shall not work, or be employed.

36. No Court inferior to that of a Magistrate of the First Class shall try offences under the Act. Jurisdiction of Court.

37. (1) The Government may make Rules to carry out the purposes of this Act. Rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may be made for all or any of the following matters, namely :—

(*a*) the form in which the certificate of registration may be issued ;

(*b*) the constitution of a Board or Court and the qualifications for a Special Conciliator, or member of a Board or of the Court ;

(*c*) the fee to be paid on applications under the Act ;

(*d*) the manner in which the total number of employees is to be computed for the purposes of this Act ;

(*e*) the other powers of the several authorities under section 18 ;

(*f*) the manner in which standing orders may be submitted under section 9 ;

(*g*) the form in which notice of charge is to be given and the persons to whom copies of such notice are to be sent under section 10 ;

(*h*) the form in which a statement of the case is to be forwarded to a Special Conciliator, Board or Court sole arbitrator, or ;

(*i*) the procedure to be followed by the several authorities under the Act ;

(*j*) the registers to be maintained by the employer, and the returns and the information to be periodically furnished by him to the Commissioner of Labour or other authorities for the purposes of this Act ;

(*k*) the officers to be deemed as employers in respect of industrial undertakings owned by the Government ; and

(1) the form in which the memorandum of agreement, settlement or the award shall be drawn up and the manner in which it shall be recorded and published by the Registrar.

(3) The Government may also prescribe a fine not exceeding one hundred rupees for a breach of any such rule.

(4) The rules made under this section shall be subject to the condition of previous publication in the *Official Gazette*.

SCHEDULE I.

SECTION (9).

1. Classification of employees, *e.g.*, permanent, temporary, apprentices, probationers, etc.
2. Manner of notification to employees of periods and hours of work, holidays, pay days and wage rates.
3. Shift working.
4. Attendance and late coming.
5. Leave and holidays, conditions, procedure and authority to grant.
6. Liability to search and entry into premises by certain gates.
7. Temporary stoppages of work and rights and liabilities of employers and employees arising therefrom.
8. Termination of employment. Notices to be given by employer and employee.
9. Punishment for misconduct and the acts or omissions which constitute misconduct.
10. Means of redress for employees against unfair treatment or wrongful exaction on the part of the employer or his agent or servant.
11. Rules of discipline.

SCHEDULE II.

SECTION (10).

1. Reduction intended to be of permanent or semi permanent character in the number of persons employed or to be employed not due to *force majeure*.
2. Introduction of rationalisation, efficiency or other new systems of work.
3. Starting, alteration or discontinuance of shift working otherwise than in accordance with the standing orders.
4. Withdrawal of any customary concession or privilege or change in usage.
5. Wages and total weekly hours of work.

Demi Official letter No.R.U.1687 dated the 23rd July 1941 (marked Very Urgent), from the Registrar, Bombay Industrial Disputes Act, Bombay, to the Director of Industries and Commerce in Mysore, Bangalore.

In an article headed "Mysore Labour Dispute Bill" appearing at page 7 of the issue of "The Hindu", for Sunday, July 20,1941, it is reported that the Committee recently appointed by the Government of Mysore to examine the question of drafting suitable legislation for the prevention and settlement of Industrial disputes has unanimously approved the draft of the Mysore Labour Disputes Bill.

It is also stated in this connextion that the Mysore Bill follows the Bombay Industrial Disputes Act, 1938. I do not know whether you are aware of the fact that the Government of Bombay have recently prepared a comprehensive Draft Bill for amending the Bombay Industrial Disputes Act, 1938, in the light of the working of that Act for the last two years. This draft Bill is to be discussed at a Conference of the representatives of "Labour" and "Industry" Constituencies in the Bombay Legislature some time towards the end of next month. I am sending you a copy of this Draft Amending Bill under separate registered cover.

In the meanwhile I should be grateful to you if you would be so good as to send me six copies of the draft of the Mysore Labour Disputes Bill. Thanking you in anticipation for your early attention to this letter.

"Copy"

L. Ananthanarayana 25/7/41

For Director of Industries & Commerce.

SRS) July 25,1941.

9/28/7

IMMEDIATE

Labour Law in Western Countries.

			LABOUR LAW.
1)	I.L.O. Industrial & Labour Information Bulletin...	26th Sep.1938.	Compulsory Arbitration -- France.
2)	"	27th February 1939.	Conciliation and Arbitration in Australia.
3)	"	13th November1939	Labour Legislation in the United States of America.
4)	"	24th July 1939.	Report of the National Labour Relations Board in the United States.
5)	"	17th July 1939.	Strikes and the Anti Trust Laws in the U.S. (A'[illegible] Decisio
6)	"	26th Feb.1940.	Labour Law - Regulations for Certain Trades in Yogoslavia .
7)	"	20th Feb.1939.	Trade Unions and the Government in Columbia.
8)	"	27th March 1939.	Labour Law - Enforcement of Industrial Legislation in South Africa.
9)	"	1923-24	Report of the Ministry of Labour containin "Industrial Relations and (Conciliation and Arbitration
10)	"	13th May 1940.	Labour Law - Emergency W[illegible] xing Legisl[illegible] on in Great Britain.
11)	"	17th April 939	Labour Law Industrial Relations i New Zealand
12)	"	16th January 1939.	Labour Law Compulsory [illegible] tration in the Norwegian Forestry Indus[illegible] try.
13)	"	4th December 1939.	The New Labour Legislation Spain

14)	Industrial and Labour Information Bulletin (I.L.O.)	27th November 1939.	The New Labour Legislatio in Spain.
15)		27-5/3-6-1940.	Labour Law - Minimum Wage inspection in the United States.
16)		11th Dec.1939.	Wartime Labour Legislatio in France.
17)	nternational Labour Review.	Aug.Sept.1940	Labour Law - Emergency Regulation of Employment in Rumania.
18)		January 1940.	Regulation of Labour in Indo-China.
19)	Bombay Labour Gazette.	pril 1938	Conciliation and Aribi tration in Canada
20)	International Labour Review.	Dec.1933.	New Legislation in British Columbia.
			Legislation on Labour Disputes in Norway.
21)	I.L.O. 19th Session.	Holidays with pay.	
22=	Industrial and Labour Information Bulletin. 1/8-Jan.1940.	Minimum Wage Legislation in Brazil.	

for Commissioner of Labou
in Mysore.

DECELOPMENT SECRETARY TO GOVERNMENT)

THE INDUSTRIAL LABOUR BILL.

Comments on Clauses.

Preamble: We suggest the deletion of the word "industrial" before the words "disputes by conciliation etc" in the third line for reasons stated in our comments on Clause 3 (22).

Clause 1: Sub-clause (2): We note that the Act is to come into force at once. We think it would be better if it were to come into force on some date to be subsequently notified by Government, as various preparations will have to be made before the Act can be properly applied.

Clause 1: Sub-clause (5): The phrase "industrial undertaking" is used in many places in the Act, but has nowhere been defined. We think it would be advisable to incorporate a precise definition of "Industrial undertaking" in the Act. As it stands, the number of persons employed and not the nature of the work is the criterion.

In the British Indian Payment of Bonus Act, 1936, there are the following definitions of "factory" and "industrial establishment":

(i) "factory" means a factory as defined in clause (j) of section 2 of the Factories Act, 1934.

(ii) "industrial establishment" means any -
(a) tramway or motor omnibus service;
(b) dock, wharf or jetty;
(c) inland steam vessel;
(d) mine, quarry or oil-field;
(e) plantation;
(f) workshop, or other establishment in which articles are produced, adapted or manufactured with a view to their use, transport, or sale.

Clause 3: Sub-clause (1): We suggest that the definition of "award" be changed to read as under:-

"award" means any interim or final determination in an arbitration proceeding of any industrial dispute or of any question relating thereto and includes an award by the Industrial Court

Clause 3: Sub-clause (4): We are strongly of opinion that the definition of "Commissioner of Labour" should not be held to include Assistant Commissioners of Labour. Responsibility must rest somewhere, and it should be placed on the Commissioner. Assistant Commissioners may be deputed to assist the Commissioner, and the Commissioner may be empowered to delegate some of his authority to the Assistants, subject to power of revision, but he must, we feel, remain the Officer responsible for Government for his department. In this view of the case, we put out that the definition should read as under:-

> "Commissioner of Labour" means an officer appointed by Government for the time being to be the Commissioner of Labour.

Clause 3: Sub-clause (7): In view of the suggestion made by us for the constitution of an Industrial Court, the definition of "Court" should be deleted, and a definition of "Industrial Court" should. We suggest that definition should be:-

> "Industrial Court" means the Court of Industrial Arbitration appointed under section .. .

Clause 3: Sub-clause (8): The proposed definition of "employee" is exactly the same as in the Bombay Industrial Disputes Act. That definition has been the cause of a considerable amount of trouble. This definition read in conjunction with Clause 20 will create considerable difficulties. We, therefore, suggest that all words after "industry" in line 5, namely, "and includes an employee discharged on account of any dispute relating to a change in respect of which a notice is given under Section .. whether before or after the discharge" should be excluded from the definition. When a legal strike takes place the natural corollary is that at the stage within the meaning of the term in view of conciliation

proceedings, an employer must declare a lock-out, but even if the employer declares a lock-out and gives his workers a period equal to the ordinary notice of discharge in which to make up their minds to resume employment, he is precluded from discharging them. The only thing that the employer can do at the end of the notice period is to refuse to continue to employ workers who have not presented themselves for employment. It may, of course, be held that if a worker refused to come back on the terms offered by the employer and within the period specified, the worker could be held to have discharged himself in which event the employer would be free to take on a new permanent worker to replace him, but this is stretching the meaning of the term "lock-out" beyond the generally accepted meaning, and we think it would be better to deal with the situation in a very straight forward manner by giving the employer the same rights to discharge an employee who is on strike as the employer would have if the employee was on work, more particularly as, in the case of a legal strike, the employee has got the right to find new employment without giving notice to his old employer. It is, we think, hardly reasonable to give a worker who elects to go on strike greater rights in regard to security of employment than he possesses when he is on work.

<u>Clause 5: Sub-clause (ii):</u> This definition is too wide and vague. A great deal of confusion is bound to arise as a result of this definition of "industrial matter" over-riding Schedule I. When Schedule I lays down that certain matters have to be regulated by standing orders which should be determinative of the relations between an employer and his employees, we submit that all those matters which are specifically mentioned there should be excluded from

this definition.

Incidentally, it may be pointed out that in this Bill, there is no provision corresponding to Section 20(8) of the Bombay Industrial Disputes Act, which specifies that the standing orders shall be determinative of the relations between the employer and his employees in the industry or occupation concerned in regard to all industrial matters mentioned in Schedule I. This is a most important provision of the Bombay Act, and any standing orders must, we submit, be determinative of the relations between employers and employees as far as the matters mentioned in Schedule I are concerned.

Clause 5: Sub-clause (15): Under the definition as it now stands, it would be feasible for an association of employees to collect subscriptions other than monthly, and by so doing obtain what would amount to a fictitious accretion of membership. For instance, an association might by threat, intimidation or other ways, manage to extract a single payment of say 8 annas and give a receipt for 8 months' subscription. We think it most advisable that the term "member" should be applied only to those persons who month by month for a period of at least six consecutive months, voluntarily pay a membership subscription to the association. We, therefore, suggest that the term "member" be defined as under:-

> "Member" means a person who is an ordinary member of an association and who is and has been paying at regular monthly intervals for a period of at least six consecutive months a membership subscription of not less than one anna per month, and the term "membership" shall be construed accordingly.

That must, we think, be avoided in the case of any association of employees in acquisition of membership by means of a nominal half-yearly or yearly subscription.

Clause 3: sub-clause (18): We suggest that this definition should be split up to include separate definitions for "association of employees" and "registered association". They might be as follows:-

"association of employees" means a combination of employees employed in an industrial undertaking.

"registered association" means an association registered under this Act.

Clause 3: sub-clause (22): [illegible] of widening the definition of "strike" by [illegible] the words "where such cessation or refusal is in consequence of an industrial dispute in any industry". In the definition as it stands, certain classes of [illegible], political strikes and possibly certain classes of sympathetic strikes might not fall within the scope of the definition. We should like to point out that experience in Zambia has shown that the co-ordinated labour leaders make use of the trade union platform very often more for political aims than for industrial purposes. One of the effects of this has been that labour leaders have organised one day demonstration strikes for objects which are outside the scope of the legitimate activities of a trade union. By widening the scope of the definition of "strike" so as to include hartals and one-day-stoppages of work, it would seem to have an indirect check on the non-trade union activities carried on by labour leaders. Where a strike has a political or industrial background, it is in fact a strike and be a cause of considerable loss to employers and the community as a whole, and we feel very strongly of the opinion that any organised cessation of work should fall within the provisions of the Act

Clause 4: Sub-clause (4): The wording of this clause illustrates the inadvisability of permitting the definition of "Commissioner of Labour" to include "Assistant Commissioner of Labour".

Clause 4: Sub-clause (5): We think that an exception to this particular power to represent the interests of labour and the general public being given to the Commissioner or Assistant Commissioner of Labour. As we have already pointed out at the beginning of this memorandum, we think it essential for the proper working of the Act to have a Government Labour Officer appointed to represent the interests of labour. Such an Officer should be independent of the Commissioner of Labour and should be responsible for organising associations of employees. Under the Act as it stands, the Commissioner of Labour will be in the position of the Judge and Advocate as well in all conciliation proceedings, which, we submit, is repugnant to the basic principles of jurisprudence. We do not see any necessity for a reference to the general public. The whole matter is in the interests of public welfare, of which the employers and employees form part.

Clause 5: The task of organising associations of employees in individual industrial undertakings does not seem to be an appropriate one for the Commissioner of Labour. It should, as we have already suggested, be the task of the Labour Officer. If the function of organising association of employees were to be allocated to anybody other than trade union leaders, it should be allocated to the Labour Officer and not the Commissioner of Labour. In order to give such Labour Officer an effective control over the running of associations of employees, it is essential that he should be given the right of attending and taking part in all deliberations of the association thus without power to vote. He should also have the right

to be elected to represent workers in any negotiations that may take place in any industrial dispute. An additional reason why the commissioner of labour should not be given the duty of regulating procedure is that he is also the registration authority.

Clause 8: sub-clause (2): Sub-clause (1) makes provision for the formation of labour to be co-operative societies or associations of employees. Sub-section (2) provides for the maintenance of a register of such associations satisfying the "prescribed conditions". We are of opinion that the conditions to be prescribed should be more known and included in the statute. If this is not feasible, it should be done by means of Rules under the Act, and such Rules should not be framed without prior consultation with the interests concerned. The main conditions which should precede registration of any association of employees should, in our view, be those specified in paragraph 4.

Clause 9: sub-clause (1): We suggest that the following words, viz., "in his opinion" in the fifth line should be deleted, and that the words "regulating the relations between him and his employees" should be inserted instead.

Clause 9, sub-clause (2): As far as the stan orders are concerned, we do not think it either just or equitable that the commissioner of labour shall be the final authority. There must be some statutory appellate authority: in the Primary Industries Act, there is such an authority in the shape of the Innkeepers Court. We therefore take this opportunity to emphasise the suggestion we have made in an earlier part of this memorandum that an Industrial Court should be constituted under this Act. Such a court should, in our opinion, consist of officers with high judicial qualifications and experience

Incidentally, it may be pointed out that no provision appears to have been made in the Bill as to when the Standing Orders settled will come into operation. We suggest that an additional clause or sub-clause should be provided to this effect and that it should be somewhat on the following lines:-

> "The standing orders so settled and recorded in the register shall come into operation from the date of their record in the register or after 10 days from the decision of the Commissioner of Labour whichever is later."

Clause 8: Sub-clause (1): The sub-clause, as drafted appears to leave out the procedure to be followed in the case of industrial matters outside the scope of Schedules I and II, and it is certainly important in the case of employees that notice should be given of any change required in any industrial matter. Otherwise, it would be possible for employees' organisations to foment strikes which would not be illegal for the reason that they did not concern matters set out in Schedule I and Schedule II. It is true that employers are only required to give notice in matters covered by Schedule I and Schedule II but it must be remembered that Schedule II is essentially restrictive on the freedom of action of employers. Moreover it is really relates to matters which concern employers, and in deviation Schedule II it must be assumed that all important matters in which notice of change by employers is desirable have been covered. It would create an impossible position if an employer had to give notice about every minor change which he wishes to effect, particularly when it is remembered that the character of goods turned out from day to day by a mill varies considerably and often affects the number of persons required to be employed in particular departments. For instance, at one season of the year a mill might be

producing large quantities of coloured goods in which case a large number of colour winders would be required. At another time of the year, they might be producing more grey goods and more reeling yarn. In such circumstances, the practice is to find employment for the colour winders on grey winding and in reeling, but it would be absurd to have to give notice of change in order to effect a commonsense switch-over of this description. The examples which can be quoted are numerous, but the real point is that notice of change by employer should only have to be given when permanent and substantial alterations in conditions are intended to be effected. Otherwise, the day to day working of an industry like the cotton mill industry would be impossible. This distinction exists in the Bombay Industrial Disputes Act. We invite attention to Section 28, sub-sections (1) and (2) of that Act; sub-section (1) requires that an employer who intends to effect any changes in the settled standing orders or in respect of any industrial matter mentioned in Schedule II shall give notice of such change; and sub-section (2) provides that an employee desiring any change in any such standing order or in any other industrial matter shall give such notice. Dealing with this distinction in the debate on the Bombay Industrial Disputes Act, the following statement was made by the Prime Minister to the Government of Bombay on the floor of the Bombay Legislative Assembly:-

> "If provision is not made for employees to give notice of any change which they desire to make in <u>any other industrial matter</u>, a position will arise in which workers can go on strike without giving any notice of change in matters not covered by Schedules I and II and thereby create complete dislocation of work."

This sets out the exact position. We, therefore,

suggest that sub-clause (1) of Clause 8 should be split up into two separate sub-clauses reading as under:-

(a) Any employer desiring to effect a change in any standing orders in force in respect of matters covered by Schedule I or in respect of an industrial matter mentioned in Schedule II shall give notice of the proposed change in the prescribed form to the association of employees and simultaneously furnish a copy of such notice to the Commissioner of Labour.

(b) An employee or an association of employees desiring a change in any such standing order or in respect of any other industrial matter shall give notice in the form prescribed to the employer and also forward a copy of the notice to the Commissioner of Labour.

Clause 8: Sub-clause (2): The procedure outlined does not appear to contemplate direct negotiations between employers and employees. We submit that there must be a provision for facilitating direct negotiations between the parties before a matter in dispute goes to the Commissioner of Labour for conciliation. If, as we have already suggested earlier in this memorandum, a Labour Officer is appointed, such preliminary negotiations will be carried on by him, and it is very likely that many industrial disputes will be settled by direct negotiations rather than by the elaborate procedure of going to conciliation etc.

Clause 10: Sub-clause (1): We do not agree that if one of the two parties to the dispute ask for a Board of Conciliation, such a Board should be appointed. A Board of Conciliation should only be appointed on the application of both parties. Whenever such a Board is appointed, it should consist wholly of independent persons and should not be constituted in accordance with the procedure laid down in the Bombay Industrial Disputes Act. We further suggest that the Chairman of the Board of

Conciliation should be a person with high judicial qualifications and experience.

Clause 10: sub-Clause (2): We submit that there should be no decision by a Board of Conciliation. The object of the Board is only to bring the parties together, and if they do not succeed in coming to an amicable settlement of the points in dispute, then they should make a report to Government about the steps taken by them to bring about a settlement. We, therefore, suggest that the words "come to a decision" be substituted by the words "submit their report".

Clause 10: Sub-Clauses (3), (4) and (5): These sub-Clauses should constitute separate Clauses since they deal with both conciliation proceedings before a Conciliator and before a Board of Conciliation.

Clause 10: sub-Clause (5): Our criticism of this sub-Clause is somewhat similar to that made against sub-Clause (2) of Clause 10. Neither a Conciliation Board nor a Conciliator should be asked to submit findings as specified in this sub-Clause as this would almost amount to making conciliation proceedings into arbitration proceedings. All that a Conciliator or a Board of Conciliation should do in his or their report is to record in detail the steps taken to bring the parties together.

Clause 11: sub-Clause (1): We are not opposed to provision being made in the proposed Act for arbitration by mutual agreement, but we are strongly opposed to the suggestion for "compulsory arbitration" in any circumstances whatever.

Pfar as we are aware except as an emergency

emergency measure during a time of war, the principle of compulsory arbitration has never been applied even in a country as industrially advanced as the United Kingdom for the reason that it is strongly opposed by employers' and employees' organisations alike. Our main objections to the introduction of the principle of compulsory arbitration have already been stated earlier in this memorandum. We further feel that "compulsory arbitration" is a contradiction in terms. The essence of arbitration proceedings is that two parties to a dispute refer the questions at issue between them to a person having the confidence of both, and mutually agree to abide by his findings. To compel an unwilling party to abide by the findings of an arbitrator in whom he might have no confidence is to abandon the essential characteristic of this form of procedure. In these circumstances, we are strongly of opinion that Government should not take powers of compulsory reference to arbitration. We have no objection to Government in an emergency such as that brought about by war, intervening in a dispute and directing arbitration proceedings, but such reference should not be under this Act, but under the Defence of India Rules. Furthermore, Government should direct compulsory arbitration before the commencement of any conciliation proceedings. In other words, compulsory arbitration should always be ruled out when once proceedings before a Conciliator or Board of Conciliation have taken place or commenced.

<u>Clause 11: sub-Clause (6):</u> Without prejudice to our objections to the incorporation of compulsory arbitration, we submit that under no circumstances should any award be [illegible] parties concerr

be made applicable for a fixed period or subject to notice of change after specified notice.

Clause 14: We think the fine of Rs.500/- is too high.

Clause 15: sub-Clause (2): We are of opinion that only proceedings before the Industrial Court proposed by us should be deemed to be judicial proceedings within the meaning of Sections 192, 193 and 228 of the Indian Penal Code and within the meaning of the Mysore Contempt of Courts Act, and that no such status should be conferred upon a Court of Arbitration.

Clause 15: sub-Clause(3): We are of opinion that the remuneration paid to Arbitrators, if any, in compulsory arbitration should not be made a charge on the parties, but should be borne by Government. In other cases, the costs of proceedings should be borne by the parties themselves unless the Court comes to the conclusion that one of the parties has been wholly in the wrong or complaint is a frivolous one.

Clause 18: sub-Clause (2): We suggest that this sub-Clause should be amended by inserting a provision for changing the terms of a registered agreement, a settlement or an award by suitable notice after a specified period, more particularly since conditions change from time to time. Moreover, the additional provision suggested will, it is thought, be in the interests of labour as well.

The amendment we have suggested to this sub-Clause will necessitate consequential amendments to be made in sub-Clause (1) of Clause 8.

Clause 19: sub-Clauses (1) and (2): In our opinion, the penalties are too high. The Bill as a whole is a complicated one, and its provisions are capable of varying interpretations, and it is, therefore, possible that illegal changes may be made through inadvertence or through a misapprehension of the Act and the Rules which might be framed thereunder. We, therefore, suggest that the penalty for an illegal change should be reduced to Rs.500 and that the limit per day for continuation of the offence should be reduced to Rs.100.

Clause 20: sub-clause (1): One of the effects of this sub-Clause appears to be that an employee has greater rights during a legal strike than he has when he is actually working, bedause read in conjunction with the definition of "employee" (sub-section (8) Clause 3), it would appear that an employee cannot dismissed or reduced or punished in any other manner during a legal strike. A slight modifica... of sub-clause (1) of Clause 20 would set the position right, and we suggest that it might be amended as under:

> " 20(1). Without in any way infringing upon the rights accorded to an employer under any standing orders settled under this Act, no employer shall dismiss or reduce any employe or punish him in any other manner by reason only of the circumstance that the employee-

The incorporation of the preliminary words suggested would make it clear that an employer would be entitled to discharge any employee with due notice in the same manner and under the same circumstance in which he would be entitled to discharge an employee who was actually working.

lause 20: sub-clause (1)(d): We are of opin... ...is sub-Clause should be deleted, since it provisions are against the very object of the B

namely, the promotion of company associations. A workman without joining company associations may join an outside association, the object of which is to secure better industrial conditions, and under the protection given to him under this Sub-cl create trouble in the mills and bring about a complete dislocation of work. If this sub-Clause is retained, it would encourage workpeople to join outside associations rather than company associati

Wise se

Clause 20: sub-Clause (1)(e): This sub-clause should also be deleted for the same reason as stated by us in the previous sub-Clause.

Clause 20: sub-Clause (2): The penalty provided for in this sub-Clause is excessive, particularly as any infringement of this Clause would probably be inadvertent. It is suggestec that the penalty should be reduced to Rs.200 in c involving more than one person and to Rs.50 in ca involving one person only.

Clause 20: sub-Clause (4): We object this sub-Clause for the following reasons:

(a) Under sub-Clause (3) of Clause 20, the C has got the right to fine and to awar compensation to the aggrieved employee

(b) We also object on a wider principle, namely, that under this Bill an employer does not get any corresponding right in respec an employee leaving the employer with notice. All that the employer can do is to go to a Civil Court for redress.

We submit that the employer and employee should have the same right.

Clause 21: Sub-Clause (1)(a)(ii): This sub-Clause is not wide enough. Sub-Clause (1)(a)(i) covers matters dealt with in Schedule I, but sub-Cl (ii) covers only matters dealt with in Schedule II. There are, however, a number of industrial matters outside the scope of both Schedule I and Schedule II, and a strike even in such instances is illegal under the Bombay Industrial Disputes Act unless notice of change has been given. The sub-Clause should, therefore, be widened so as to includ any other industrial matter. This could be done by inserting the word "other" before "industrial matte and deleting the words "mentioned in Schedule II."

We have suggested earlier in this memorandum that political and sympathetic strikes should be included in the definition of the term "strike". Provision should, therefore, be made in this Clause for getting such strikes declared illegal by the Industrial Court proposed by us. We suggest tha a new sub-Clause be added to this Clause reading somewhat as under:-

> "A strike shall be illegal if it arises from causes other than an industrial dispute.

This will necessitate consequential changes being made in the following sub-Clauses, to sub-Clause (1) of Clause 21.

Clause 22: Since we have suggested that a strike shall be illegal if it arises from causes other than an industrial dispute, a similar provision might be made in the case of lockouts. We suggest that a new sub-Clause be added to this Clause reading somewhat as under:-

> "A lockout shall be illegal if it is decla for causes other than an industrial dispute."

In regard to sub-Clause (b) of Clauses 21 and 22 generally, we would like to point out that the proposed Bill is defective, inasmuch as it does not make it perfectly clear as to when conciliation proceedings may be deemed to have come to an end. We, therefore, suggest that a Clause similar to Section 1 of the Bombay Industrial Disputes Act should be incorporated, and that it should be somewhat on the following lines:-

> "The conciliation proceedings shall be deemed to have been completed when a settlement arrived at in such proceedings is registered or if no settlement is arrived at, when the report of the Conciliator or the Board of Conciliation is published by Government or when the time limit fixed for the completion of such proceedings has expired."

Incidentally, it may be pointed out that no provision appears to have been made in the Bill as regards the time limit for conciliation proceedings.

Clauses 21 and 22: In regard to Clauses 21 and 22 generally, no procedure seems to have been laid down in the Bill as to how strikes or lock-outs are to be declared illegal. In Bombay one had to go to the Industrial Court. This makes it all the more important for provision being made in the Bill for the constitution of an Industrial Court.

Clause 23: The fine is unduly heavy. We do not agree that the power to declare a lockout or strike illegal should rest with the Commissioner of Labour. It is placing far too great an authority in one individual's hands, particularly since the proceedings incidental to the declaration of illegality are not defined.

Clause 24: Please see our general comments on Clauses 21 and 22.

Clause 25: We suggest that the word "held" should be substituted for the word "declared" in the third line of this clause, as it appears to be more appropriate.

Clause 30: sub-Clauses (2)(a) and (b): We submit that these two sub-Clauses should be made more specific by inclusion inthe Rules to be framed for the purpose of carrying out the provisions of the Act, of the rules of an association of employees, the manner in which its business shall be conducted, the procedure that would be followed by such association of employees before declaring a strike, etc.

Clause 30: sub-Clause (2)(n): This sub-clause should be made clear by providing that the fees will only be payable on applications for registration of associations and that there should be no fees for the deposit of any other applications under the Act.

Clause 30: sub-Clause (2)(i): We suggest that the words "conciliator or Assistant Conciliator" should be included.

General Notes on Schedule I and II.

Schedules I and II, as now framed, overlap considerably. The amendments we propose are intended, amongst other things, to do away with overlapping. Schedule II of the Bill, as proposed contains items which should really find a place in Schedule I and not in Schedule II. Schedule II will also interfere with smooth day to day working and create totally unnecessary difficulties for employers without in any way benefiting employees.

Schedule I.

The items in Schedule I are identical with those in Schedule I of the Bombay Industrial Disputes Act. As a result of experience, the Millowners' Association, Bombay, has suggested various amendments, and these should, in our opinion, be incorporated in this Bill. They are detailed as follows:-

Item 1: We suggest that this item should be amended to read as under:-

> "Classification of employees - permanent, temporary, apprentices including indentured apprentices, and probationer."

The system of employment of 'badlis' is not prevalent in Mysore.

Item 3: "Shift working" is a vague expression which could be interpreted to include many things which should not find a place in standing orders. The expression is also open to very varying interpretations. Even the Bombay Industrial Court appeared to be in doubt as to the meaning attributed to the term "shift", and difficulties have arisen in Bombay as a result of the standing order which has been framed to cover this item in the Schedule. The Millowners' Association considers that this item should be made specific in its meaning and scope, and suggests the following wording:

> "3. Notice to be given to employees of discontinuance of single, double or multiple shift working in a department or departments."

In the old standing orders of the Millowners' Association, no notice of discontinuance of shift working as such was provided for, it being held that this point was covered by the 14 days' notice which employers had to give to employees when they desired to dispense with their services. The Association has now agreed that discontinuance of shift working

which involves the discontinuance of the service of a large number of workers at the same time merits special provisions and before the Industrial Court it was agreed that shifts should not be discontinued with less than thirty days notice. The new wording proposed makes it clear that the item "shift" does not necessarily apply to second or third shift. On many occasions since the Bombay Industrial Disputes Act came into force, the question of the partial or wholesale discontinuance of any shift operations has arisen and difficulties had been caused owing to the various interpretations which have been placed on item 1 of Schedule II. It has always been maintained by the Association that it was unreasonable to have to follow a different procedure when discontinuing operations in one shift and discontinuing operations in another shift. The position would be remedied by discontinuance of operations in all shifts under the standing orders, and by altering item 3 of Schedule I in the manner indicated, this result could be achieved.

Item 5: We suggest that the wording of this item should be chaged to:

"Leave - conditions, procedure and authority to grant".

It will be noted that the words "and holidays" have been omitted for the reason that the question of holidays as distinct from leave does not arise and that in any case 'holiday' is covered by item 2 of Schedule I.

Item 7: We suggest that this item should be divided into two portions to cover temporary stoppages of work due to force majeure, technical or trade reasons and "playing off" which should definitely be

Edd for in the standing orders. The [redacted] on had a special standing order covering "[redacted] ff" before the Bombay Act came into force, and [redacted] it may be true that playing off could not be objected to because it has been established by custom and usage, it would, we think, regularise the position to have a specific and definite standing order setting out the limitation to which playing off could be practised. The wording of the amendment which we suggest to Item 7 is as under:-

"7(a) Temporary stoppages of work due to force majeure, technical or trade reasons, and rights and liabilities of employers and employees"

(b) Playing off for technical or trade reasons limitations and rights and liabilities of employers and employees."

Item 8. A re-wording is suggested as under:-

[redacted] for offences [redacted] acts and omissions constituting misconduct."

In this connection, we would like to point out that no provision appears to have been made for fines. We are of opinion that the workers should at all times know the offences for which they might be fined, and consider that the best way of conveying this information to the workers is to have them clearly set out in the standing orders. In British India, the position is that the Payment of Wages Act prescribes certain classes of offences and acts and omissions for which fines may be imposed. There is no Prompt Payment of Wages Act in Mysore. It is, therefore, all the more important that fines should be included in Schedule I. We suggest that some item should be inserted in this Schedule after S 9 to read as under:-

[redacted] and acts or omissions for which fines may be imposed."

DRAFT MYSORE LABOUR BILL.

GENERAL NOTE:

The purposes for which the legislation is to be introduced namely, the peaceful and orderly settlement of disputes between employers and employees may be generally welcomed. The Bill also provides machinery for ensuring the establishment and registration of Employees' Associations in individual concerns. This is all to the good, but it would be infinitely better, for the purpose of achieving the satisfactory organization of Employees' Associations, to have set out in the Act the main conditions which shall be provided for in the Rules and Regulations of any Association applying for registration. The conditions which we think should be covered in the Rules of Employees' Associations are set out in Appendix "A".

As regards the Act itself, we consider it to be defective in a number of respects. In the first place, we are very strongly of opinion that it would be inadvisable to give the Commissioner of Labour all the separate and distinct functions accorded to him in the Bill. It is logical that the Commissioner of Labour should be in a position to act as a Conciliator and should be empowered to delegate certain of his powers in respect of conciliation to Assistant Commissioners of Labour but it does not seem equally logical or desirable for the Commissioner of Labour to be given the responsibility also of an Organiser of Employees' Associations, or the duty to act as a spokesman on their behalf. In the Bombay Industrial Disputes Act, the last two named functions are given to an officer designated "Government Labour Officer", and we do think that a similar procedure should be followed in the Mysore legislation; otherwise we have the position in which the Commissioner of Labour becomes at once judge and advocate. We therefore, strongly press for the inclusion of provisions in the measure for the appointment of Government Labour Officers and a comprehensive definition of his functions and duties in t

itself.

Another point of major importance to which we should like to draw attention is that Standing Orders which, in reality, constitute a worker's contract of employment and set out his rights, privileges and more important obligations, should be finally determinative of the relations between employers and employees. This is the position under the Bombay Act, and matters covered by the Standing Orders cannot become the subject of an industrial dispute. It is, of course, desirable that arrangements should be made under which modifications can be introduced in the Standing Orders after notice has been given by one side or the other, and the process of negotiation set out in the Bill has been carried through all the necessary stages. It is also most necessaryl in our view, to provide for the constitution of an Industrial Court in the measure with powers similar to those accorded to it in the Bombay Act amongst which would be included right of appeal against Standing Orders settled by the Commissioner of Labour, and the duty of deciding whether strikes or lockouts are illegal. We most strongly object to the idea of compulsory arbitration provided for in the Act, but do not object to the idea of arbitration with the consent of both parties. The main grounds underlying our opposition to the idea of compulsory arbitration are:-

(a) Compulsory arbitration is a reversal of the policy of settlement by agreement.

(b) No judicial or quasi-judicial system can work with general assent unless it administers a set of known and established rules based upon generally accepted principles. No such principles can be defined in respect of trade disput

(c) It would be impossible in practice to enforce an unacceptable award upon labour.

(d) Compulsory arbitration might tend to lessen the des of the parties to come to a settlement by agreement he kno that if a dispute goes on long enough it will be referred to -

court with compulsory powers, would almost certainly tend to make a recalcitrant party put forward extreme claims, and avoid a friendly settlement in the hope of getting larger concessions from an arbitrator. In general, the use of compulsory arbitration would weaken the sense of responsibility of employers and employees, thus retarding the practice [illegible] ment by discussion and agreement.

(e) The penalties which may be imposed for participating in or instigating illegal strikes are not of such a character as to prevent their occurrence after arbitration has taken place, whereas the penalties laid down in the case of illegal lockouts are deterrent. In any case, such penalties would be practically inoperative so far as labour is concerned.

Our detailed criticisms of the various clauses of the Bill are attached herewith.

THE MILLOWNERS' ASSOCIATION

PATEL HOUSE, CHURCHGATE STREET
POST BOX NO. 95.

BOMBAY, 1st July, 1941.

My dear Ramanathan

With reference to the telephone talk I had with you last night, I am sending herewith an advance copy of our note containing our views on the draft Mysore Labour Bill. I want to make it clear, as I did last night, that the note is still under discussion between ourselves and Binnys and that it does not represent our final views. It will only serve to give you a general indication of our first reactions to the Bill. This note is sent only for your personal perusal to enable you to get an idea as to how our minds are running

Yours ever
[illegible]

A. V. Ramanathan, Esq.,
Minister for Law,
Bangalore.

Enc

VNC/K

EXTRACT FROM THE REPORT OF RAJAMANTRAPRAVINA DIWAN BAHADUR K. MATTHAN, ESQ., Retired First Member of Council

Labour associations formed without trade union legislation.

One of the chief representations of the workmen both during the strike and during the course of my enquiry was the formation and the recognition of a labour union on the mines. There are a few labour unions existing in the State in connection with certain other industrie There is a union of the workers in the textile industry in Bangalore and the employées of the Central Workshops of the Mysore State Railway have been permitted to form themselves into an association, which has been recognised by the Railway administration. In British India also th formation of labour unions preceded legislation. Legislation did not make such unions legal; it provided for the registration of trade unions, prescribed the conditions for registration and laid down the rights and liabilities of registered unions The Trade Unions Act, XVI of 1926 the first British Indian Act on the subject, specifically refers to unions existing before the commencement of the Act

Trade Union legislation in British India.

Trade union legislation by the Central Government in British India consists of two enactments, the Indian Trade Unions Act 1926

and the Trade Disputes Act, 1929, with subsequent amendments. The Trade Disputes Act provides machinery for the settlement of trade disputes, such as courts of enquiry and boards of conciliation, declares certain kinds of strikes and lock-outs illegal and lays down special rules in respect of strikes or lock-outs in public utility services. The enactment of similar legislation in Mysore, with modifications and possibly improvements suited to local conditions, would be in keeping with the policy of the Mysore administration of being abreast of the most progressive legislation for safeguarding the interests of industrial labour.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

GENERAL AND REVENUE DEPARTMENTS.

G. O. No. D. 6770-1—I. & C. 310-40-7 dated 30th June 1941.

Report.

—— of *Rajasevaprasakta* Mr. A. V. Ramanathan on the strike in the Bangalore Woollen, Cotton and Silk Mills, Ltd.

ORDER No. D. 6770-1—I. & C. 310-40-7, DATED BANGALORE, 30TH JUNE 1941.

In Government Order No. D. 4035-73—I. & C. 310-40-3, dated the 20th February 1941, the then Excise Commissioner *Rajasevaprasakta* Mr. A. V. Ramanathan was requested to hold an enquiry to ascertain the circumstances which led to the strike in the Bangalore Woollen, Cotton and Silk Mills, Ltd., in January-February 1941.

It is seen from his report on the subject that the strike was on the issue of payment of cash bonus, which the workers wanted to be paid at the rate of 10 per cent, while the Management sought to link it to the rate of dividend declared on ordinary shares. Mr. Ramanathan has observed that " neither in July 1940 nor in January 1941 was there the least ground for apprehension that the bonus for the previous half years would be less than 10 per cent. In fact, there was every chance of the profits admitting of a higher rate of dividend and of bonus. In spite of this circumstance, of which the workmen were not unaware, they insisted on a reconsideration of the announcement " linking bonus to dividends, while the Management were equally insistent on the acceptance of this arrangement by the workmen for the future. It was thus on an issue of no immediate importance that the strike took place, involving loss of employment and wages to a large body of workers for more than three weeks and interruption of war supply work on which the Mills were engaged. The strike was not called for in the circumstances and has had unfortunate consequences.

In view of the increasing frequency of strikes, often without notice, occurring among industrial employees, Government have separately appointed a Committee to examine the question of a more effective organisation of the Labour Department for promoting good relations between employers and workers and of undertaking legislation for the settlement of industrial disputes by conciliation and arbitration.

The Report of *Rajasevaprasakta* Mr. A. V. Ramanathan is now published for general information.

V. VEDAVYASACHARYA,

Secretary to Government,
Development Departmen

To—The Labour Commissioner in Mysore.
The Director of Industries and Commerce in Mysore.

Report of the Enquiry into Strikes in the Bangalore Woollen, Cotton and Silk Mills, Ltd.

24th March 1941.

In Government Order No. D. 4071-73—I. & C. 310-40-3, dated the 20th February 1941, I have been appointed to hold an enquiry "to ascertain the circumstances which led to the strike" in this (Bangalore Woollen, Cotton and Silk) Mill which commenced on the 20th January 1941 and ended on the 14th February 1941.

I have interviewed fifteen workmen, representative of all shades of opinion in the Mill, the Director, the Manager, the Welfare Superintendent, the Preparations Master, a Writer in his Department, and the President of the Employees' Union, the Commissioner of Labour and the City Superintendent of Police, and discussed the question of labour generally with Messrs. T. Ramachandra and K. T. Bhashyam at their request. I have visited the Mills twice, once on the 21st February 1941 before commencing my enquiry and again on the 21st March 1941 on the conclusion of the enquiry and before drafting the Report. On the first occasion, I went through all the Departments and discussed generally with the Director and the Manager. On the second occasion, I visited the Welfare and Union offices, the Social and Educational and Welfare activities and the Labour Colony (Binnypet) and discussed generally again with the Director and the Manager.

I have had access to the files in the Police and Labour Offices and studied the proceedings and reports of the Welfare and Union Committees and the Directors' Annual Reports.

All the witnesses were interviewed individually. The notes are confidential and a promise of non-publication has been given to each person.

It is common ground that the July 1940 strike and January-February 1941 strike are alike due to the question of half-yearly cash bonus. It is common ground also that the strike when it occurred was unexpected and sudden. The atmosphere was surcharged owing to resentment by workmen of the Management's refusal of their request in regard to the Bonus, but there was a general anxiety to avoid a strike and secure a peaceful settlement. But the situation was such that anything might upset the balance.

On Monday the 20th January 1941, the Preparations Master found shortly afternoon that a workman in the Cotton Winding Department was advising workmen to stop work. In this impression, he caught him by the hand and took him downstairs to the Manager. The workmen thought he was being sent out and therefore those in that Department went down. Further efforts to avoid a general strike on the next day (*i.e.*, after the close of the day shift at 4-30 P.M.) became impossible, as the Management refused to reconsider the question of principle laid down by their linking bonus to dividend.

In the course, alike, of my interviews and in the previous discussions as disclosed by the Welfare and Union Proceedings, three other questions have frequently arisen—Resumption of payment of Book Bonus, resumption of grant of annual increments and, less frequently, grant of pay for festival holidays. The last one has been raised on the analogy of Madras practice in answer to the Management's argument that their decision in respect of cash bonus follows what obtains, and has been accepted in Madras, while the other two are privileges which existed up to 1931 and were stopped then along with cash bonus on account of loss in Profit and Loss Account.

The point of the specific grievance is the linking of the Cash Bonus to Dividend, first announced by the Director at the Welfare Committee meeting on 3rd July, 1939, repeated on 31st July, 1939, by the Chairman at a special joint meeting of the Welfare and Union Committee, repeated at the Welfare Meeting on 3rd January, 1940, and published by notice dated 20th January 1940, copy of which was given to every workman at the time of payment of bonus on that date.

Neither in July 1940 nor in January 1941 was there the least ground for apprehension that bonus for the previous half-years would be less than 10 per cent or more. In fact, there was every chance of the profits admitting of a higher rate of dividend and of bonus. In spite of this circumstance, of which workmen were not unaware, they insisted on a reconsideration of the announcement on every occasion from 3rd July, 1939, onwards and a flat rate of '*full* cash bonus' at 10 per cent. The two strikes of July 1940 and January 1941 are due to the refusal of the management to reconsider the terms of the notice of 20th January, 1940, linking bonus to dividend and refusal to fix a date for payment of bonus in advance of the declaration of dividend by the Directors. The Management did not refuse to pay bonus. They made it clear that there was every chance of the bonus being at least 10 per cent. The real problem I have had to solve has been "why have there been strikes in successive half-years on what is apparently so thin a difference?"

'The Bangalore Woollen, Cotton and Silk Mills' is not only one of the biggest industrial concerns in the State but also one of the best managed concerns. "Workmen realise that this Management gives greater facilities to workers than other mills." The Management started a Works' Council in 1921, which became the Welfare Committee in 1929. It has been doing considerable welfare work and enabled the management and workmen to come together at close quarters and discuss many a knotty question in a friendly atmosphere. The management has encouraged the members of the committee to speak "without fear or reservation." The Proceedings and the Reports of this Committee bear eloquent testimony to the useful work it has done and to the genuine attempt by successive Directors (who are *ex-officio* Presidents) to utilise the Committee to the full extent for securing fearless expression of workers' views. The employees have a Labour Union of their own, registered in 1929 under the Mysore Societies Act III of 1904. The management have provided an office room for it and permitted the committee members to take to departmental bosses and the Manager, even in working hours, special cases of hardship brought to their notice by their constituents. Similar privilege is extended to members of the Welfare Committee also. The President of the Union can lead deputations to the Manager or interview him or the departmental bosses whenever necessary. The Welfare Superintendent acts similarly in respect of his Committee. The Reports of the Union and the proceedings bear ample testimony to its useful work. At a meeting on 17th June 1938, the Director was present as a visitor and addressed the committee and hoped that every employee would enrol as a member of the Union. Otherwise, the Management do not enter into the secrets of the Union proceedings or activities. The workmen have a Stores, a Colony of 155 houses with tap, light and flush latrine for each house and with a Maternity and Baby Clinic, get privilege leave, sick leave on half-pay, a gratuity fund, a Provident Fund as an alternative, Perfect Attendance Prize of Rs. 2-14-6 for a year and an additional Rs. 4 for three consecutive half years, War Dearness Allowance and the Cash Bonus (the cause of the Strike). The monetary benefits amounted to Rs. 3,59,231 in 1940. There is also a dispensary and an in-patient ward with four beds for observation cases. The welfare expenditure rose from Rs. 44,889 in 1938 to Rs. 64,478 in 1940.

To understand the strikes, therefore, it is necessary to study the past history of this question of bonus and appreciate the psychological background.

There have been seven 'Whole Mill' strikes since 1926. There had been a strike previously in 1920, after which the Workers' Council (now Welfare Committee) was instituted. Of the seven strikes since 1926, one (1928) was due to communal tension in the City, another (1927) was apparently a lock-out due to (lightning) strikes in various departments, and a third (1929) was due to dismissal of a mechanic. The other four strikes have been on the bonus question. In each of the first two (1926 and 1931) due to bonus, four men lost their lives in the course

of the incidental disturbances. Ten per cent bonus was paid up to 1930 (inclusive), bonus was stopped in 1931 owing to losses, and bonus payment was resumed in 1932 and the rate increased progressively from 4·7 per cent in 1932 to 6·25 per cent in second half of 1934, 7·3 per cent in first half of 1935, 8·33 per cent in second half of 1935, and, finally, to 10 per cent again in second half of 1937. In 1931, along with cash bonus, book bonus (5 per cent) credited to Gratuity Fund, and annual increments were stopped. The Welfare Committee gave a warning of impending trouble on 28th May 1931. The proceedings of the Welfare Committee and Union Committee and the annual reports of these Committees indicate fully that the workmen have all along been pressing for the restoration of these three privileges, that the term 'full cash bonus' has been freely used by the Director-Presidents and by the workers' representatives to indicate 10 per cent, cash bonus, and that all along the workmen have been expecting the return to 10 per cent, as soon as trading results justified it. This expectation was realised in January 1938. Simultaneously with this realisation, they raised the other two questions on 24th January 1938, 13th May 1938, 20th June 1938 and 4th July 1938. The rate of dividend declared at that time was 8 per cent. In the subsequent two half years, the dividend deteriorated to 4 per cent but the cash bonus was kept up at 10 per cent. It was at this juncture that the Director-President made the announcement on 3rd July 1939 saying "It is obviously unfair to the shareholders to maintain the full rate of 10 per cent in cases where it has become necessary, owing to lack of profits, to reduce the dividend to them." The workmen immediately resisted this. But as 10 per cent was paid, the workmen raised the question again in December 1939 both in the Welfare and the Union Committees. On 3rd January 1940, the President announced "Owing to the uncertainty in this (Bonus) matter in the minds of a number of workpeople, which had been brought to the notice of the management, it has been decided to pay a cash bonus for the past half year at the rate of 10 per cent which could be paid on the 20th January." On that date, with the Bonus, notice of the new arrangement was individually given to every workman. The workers brought this up again on the 19th June and 2nd July 1940 in the Welfare Meetings and 28th June 1940 in the Union Meeting and in deputations, with no favourable results. The strike of July 1940 followed.

The workmen marched to the Dewan's residence. He advised a deputation, which interviewed him, that they should go back to work. The workmen interviewed by me give various versions of the details. The workmen conveyed to the Director of the Company also the idea that the Dewan would "go into the question of the payment of the bonus with them (the Management)." He therefore sent for the Labour Commissioner to explain to them what the Dewan said.

Again in December 1940 and January 1941, the men raised this question of bonus at meetings and deputations and made it clear to the Management that the men did not agree to the notice of January 1940, and were restive. Testimony is unanimous that the unrest was acute and general and sober counsels prevailed generally among the workmen in spite of a background of dissatisfaction. The psychological background of the workmen is well summarised by one of them in these words :—

> "The Bonus question has distressed the workmen for a very long time. Even the 1919 strike was partly due to bonus, according to what I have heard then. The 1926 and 1931 strikes were due to it. The January 1940 notice *re* bonus caused grave apprehension among the workmen. They thought it was a move to abolish cash bonus in the same way as book bonus. We were afraid that the allotment of money to Reserves, etc., could lead to elimination of bonus. Therefore we never reconciled to linking bonus to dividend. The July 1940 strike was directly due to the blank refusal of the Management to reconsider the Notice. We understood the Dewan's assurance of enquiry into our grievance as meaning that he would have the matter enquired into and arrange for a reconsideration by the Management. But we found that, at the time of payment of bonus in July 1940, *i.e.*, after the strike, the Management repeated the Dividend-Bonus formula. We felt disappointed but we still hoped that the Government would enquire into the question : * * When we found that there was

nothing heard about it even in December 1940, we got apprehensive and approached the Management. But the Management was stubborn, adamant and stiff. Even if they eventually paid on dividend basis, they could at least have been more considerate in the discussion. * * * The workmen lost heart also because Government had not intervened in their behalf and enquired into the matter, even though they knew that there had been a number of strikes due to this single grievance, and even lives had been lost on previous occasions, besides great suffering among the workmen."

The workmen could not understand why a Management which gave greater facilities than other mills " should be adamant on the question of Bonus.

The Management did not consider in January 1941 that the terms of the January 1940 Notice called for any revision, in view of the workers' representatives stating that they would not strike on this question but would work and fight for it and because the terms of the notice were just and reasonable as a bonus is paid out of profits and as it had satisfactorily settled a longstanding source of irritation.

The notes of my interviews with the workmen give ample material for accepting the summary of the workmen's standpoint substantially as quoted above. It represents the balanced view among workmen. The Management urged the acceptance of Dividend-Bouns formula on the analogy of Madras, but would not extend to them other benefits which were given in Madras, *e.g.*, festival holidays with pay.

The fear about Reserves is totally unfounded from past practice. The Balance-sheets show clearly that no secret reserves have been built up denying bonus. The Company has been generous in the past. It is generous to-day. It spends a considerable sum on Welfare and on the monetary benefits. The workmen have no valid ground for complaint of unfair or unjust treatment, considered in the abstract. Nor can the decision of the Management be considered unfair or unjust, if they were writing on a clean slate. But the history of the past two decades proves beyond doubt that in this Mill the question of bonus is by no means a question for decision on *a priori* grounds. If there had been an outside authority in routine touch with the situation as it developed and which could step in when the excellent internal arrangements for smoothing over differences failed, the strike might have been averted by helping to bridge the difference.

In conclusion, I wish to record my appreciation and thanks to the Management for the facilities readily and willingly given to me and to the Labour Commissioner and to the Superintendent of Police, Bangalore City, for their readily making all references available to me.

Corrected for order

2-2/8/41

GENERAL AND REVENUE SECRETARIAT

OFFICIAL MEMORANDUM

Dated Bangalore, the 31st July 1941

The Report of the Committee appointed in Government Order No. Camp Mysore D 5-16, dated 10th June 1941 for considering measures relating to Labour Legislation in Mysore, is published for general information.

V. VEDAVYASACHARYA,

Secretary to Government,
Development Department.

LABOUR LEGISLATION COMMITTEE

REPORT.

We have discussed the general principles of Labour Legislation and also the draft Bill placed before us to focus discussion. We have effected various changes in the Bill in order to embody the common measure of agreement among us. The Bill, as revised, is appended and has our unanimous approval. It embodies, in our opinion, a workable scheme.

The members representing labour requested that in view of the general agreement in the Committee, the Government might be moved to enact this measure as a piece of emergency legislation, excepting the provisions relating to Standing Orders, which require time for being brought into effect. The other members of the Committee have no objection to the suggestion being acted upon, if the Government find that such action is possible.

A. V. RAMANATHAN,
Chairman, 31ST JULY 1941.
M. VENKATESA IYENGAR
V. VEDAVYASACHARYA
B. G. APPADORAI MUDALIAR
R. G. K. MORRISON
A. NISBETT
V. N. CHANDAVARKAR
T. RAMACHANDRA
G. R. CHENGALARADHYA
A. N GOVINDARAJA MUDALIAR

GEORGE MATTHAN,
Secretary.

(2) This section shall come into force at once. The Government may, by notification in the Official Gazette, apply the Act or any of the other provisions of the Act from such date as may be specified in the notification.

Draft of Mysore Labour Bill.

WHEREAS it is expedient to make provision for the promotion of peaceful and amicable settlement of industrial disputes by conciliation and arbitration and the organisation of industrial employees into associations to secure their welfare, and for certain other purposes, hereinafter provided, it is hereby enacted as follows:—

Short title.

1. (1) This Act may be called the Mysore Labour Act, 1941.

Commencement, extent and application.

(2) It shall come into force from..... .....

(3) It extends to the whole of Mysore.

(4) It shall apply to all industrial undertakings, whether owned by a private person or by a Government or local authority.

Recognition of association of employees.

2. (1) The right of employees in an industrial undertaking to combine into an association for the promotion of their common interests is hereby recognised and declared.

(2) The Government may on the recommendation of the Commissioner of Labour extend this right to employees in small industrial undertakings engaged in work of same nature in any local area or to employees in industrial undertakings engaged in work of same nature located in different areas.

Definitions.

3. In this Act unless there is anything repugnant in the subject or context—

(1) "Association" means an association of employees registered under this Act.

(2) "Award" means any interim or final determination in an Arbitration proceeding under this Act.

(3) "Board" means the Board of Conciliation appointed under this Act.

(4) "Change" means a change in any industrial matter.

(5) "Commissioner of Labour" includes an Assistant Commissioner of Labour.

(6) "Conciliation proceeding" means any proceeding held by a Conciliator or the Board under this Act.

(7) "Conciliator" means any Conciliator appointed under this Act and includes the Chief Conciliator or a Special Conciliator.

(8) "Court" means a Court of Arbitration appointed under this Act.

(9) "Employee" means any person employed to do any skilled or unskilled manual or clerical work for hire or reward in any industry and includes for the purposes of any proceedings under this Act in relation to any industrial dispute an employee discharged on account of such dispute relating to a change in respect of which notice is given under Section 10 whether before or after the discharge.

(10) "Employer" includes—

(*a*) any agent of an employer;

(*b*) where an industry is conducted or carried on by a department of the Government, the authority prescribed in that behalf, and where no such authority has been prescribed, the head of such department;

(*c*) where an industry is conducted or carried on y or on behalf of a local authority, the Chief Executive Officer of such authority; or

(*d*) where the owner of any industry in the course of or for the purpose of conducting such industry contracts with any other person for the execution by or under the contractor of the whole or any part of any work which is ordinarily part of the said industry, the owner of such industry.

(11) "Industrial dispute" means any dispute or ence between an employer and employee or employees, which is connected with any industrial matter.

(12) "Industrial matter" means any matter relating to work, pay, wages, reward, hours, privileges, rights or duties of employers or employees, or the mode, terms and conditions of employment or non-employment and includes—

(*a*) all matters pertaining to the relationship between employers and employees, or to the dismissal or non-employment of any person;

(*b*) all matters as to the demarcation of functions of any employees or classes of employees;

(*c*) all matters pertaining to any right or claim under or in respect of or concerning an agreement, settlement or award made under this Act, and

l) all questions of what is fair and right in relation to any industrial matter having regard to the interest of the person immediately concerned and of the community as a whole.

(13) "Industrial undertaking" means a unit of industry under one employer in the same city, town or village, ~~and employing not less than 100 workmen~~;

14) "Industry" includes—

a) any business, trade, manufacture or undertaking or calling of employers; and

(*b*) any calling, service, employment, handicraft or industrial occupation or avocation of employees.

(15) "Local area" means an area notified as such by the Government.

(16) "Lock-out" means the closing of a place or part of a place of employment or the total or partial suspension of work by an employer or the total or partial refusal by an employer to continue to employ persons employed by him, where such closing, suspension or refusal occurs in consequence of an industrial dispute and is intended for the purpose of compelling those persons or of aiding another employer in compelling persons employed by him to accept any term or condition of or affecting employment.

(17) "Member" means a person who is an ordinary member of an association and who is paying subscription of not less than one anna per month and the term "membership" shall be construed accordingly, and shall include an honorary member holding an office in the Association.

(18) "Prescribed" means prescribed by rules made under this Act.

(19) "Registered Agreement" means an agreement registered under Section 10.

(20) "Registrar" means the Registrar of Associations appointed under this Act.

(21) "Schedule" means schedule appended to this Act.

(22) "Settlement" means a settlement arrived at during the course of a conciliation proceeding.

(23) "Strike" means a total or partial cessation of work by employees employed in an industry acting in combination or a concerted refusal or a refusal under a

common understanding of employees to continue to work or to accept work where such cessation or refusal is in consequence of an industrial dispute in any industry and is intended for the purpose of compelling any employer to accept any term or condition of or affecting employment.

Commissioner of Labour: his powers.

4. (1) The Government shall appoint a person as Commissioner of Labour whose jurisdiction shall extend throughout the State. None

(2) The Government may also appoint for any local area or otherwise one or more Assistant Commissioners of Labour who shall exercise such of the powers and perform such of the duties of the Commissioner as may be delegated by him, and subject to his control and supervision.

(3) For the purpose of exercising his powers and performing his duties, the Commissioner may, after giving reasonable notice, enter any place used for the purpose of any industry or as the office of any Registered Association and shall be entitled to call for and inspect all relevant documents which are necessary for the due discharge of his duties and powers under this Act. The Commissioner may for the same purpose enter, after giving reasonable notice, any premises provided by an employer for the purpose of residence of his employees.

(4) All particulars contained in or information obtained from any document inspected or called for under sub-section (3) shall, if the person in whose possession the document was, so requires, be treated as confidential.

(5) The Commissioner shall be entitled to appear in any proceeding under the Act and also to attend meeting of Registered Associations.

Commissioner's duties.

5. It shall be the duty of the Commissioner to help in organising association of employees in each industrial undertaking employing not less than 100 workmen, and to assist and guide the officers of such Registered associations in the discharge of their duties and in developing the work of such the associations.

Registrar of Associations of Employees.

6. (1) The Government shall appoint an officer to be Registrar of Associations of Employees in the State.

(2) He shall maintain a Register of Associations and such other Registers as may be prescribed.

(3) On receipt of an application from an association employees for registration and on payment of the prescribed fee, the Registrar shall, if he is satisfied that the Association

fulfils the prescribed conditions, register the Association and issue a certificate of registration.

(4) Every such Registered Association shall be a Body Corporate by the name under which it has been registered and shall have perpetual succession and a common seal with power to acquire and hold both movable and immovable property and to contract, and shall by the said name sue and be sued.

7. An association shall not be entitled to registration under this Act unless the executive thereof is constituted in accordance with the provisions of this Act, and the rules thereof provide for the following matters, namely,—

(*a*) the name of the Association;

(*b*) the whole of the objects for which the Association has been established;

(*c*) the whole of the purposes for which the general funds of the Association shall be applicable, all of which purposes shall be purposes to which such funds are lawfully applicable under this Act;

(*d*) the maintenance of a list of the members of the Association and adequate facilities for the inspection thereof by the officers and members of the Association;

(*e*) the admission of ordinary members who shall be members actually engaged or employed in the industrial undertaking concerned and also the condition for the admission of honorary members as officers; provided that not more than two such members shall be so admitted into any Association and provided further that no one shall be an honorary member of more than one Association at the same time;

(*f*) the conditions under which any member shall be entitled to any benefit assured by the rules and under which any fine or forfeiture may be imposed on the members;

(*g*) the manner in which the rules shall be amended, varied or rescinded;

(*h*) the manner in which the members of the executive and the other officers of the Association shall be appointed and removed;

(*i*) the safe custody of the funds of the Association, an annual audit, in such manner as may be prescribed, of the accounts thereof and adequate facilities for the inspection of the account books by the officers and members of the Association.

(*j*) the manner in which the Association may be dissolved and

(*k*) the procedure to be followed before the Association can call a strike, including a secret ballot of the members and the minimum votes necessary.

Objects on which general funds may be spent.

8. The general funds of a registered Association shall not be spent on any other objects than the following namely :—

(*a*) the payment of salaries, allowances and expenses to officers of the Association ;

(*b*) the payment of expenses for the administration of the Association, including audit of the accounts of the general funds of the Association ;

(*c*) the prosecution or defence of any legal proceeding to which the Association or any member thereof is a party, when such prosecution or defence is undertaken for the purpose of securing or protecting any rights of the Association as such or any rights arising out of the relations of any member with his employer or with a person whom the member employs ;

(*d*) the conduct of labour disputes on behalf of the Association or any member thereof ;

(*e*) the compensation of members for loss arising out of labour disputes ;

(*f*) allowances to members or their dependents on account of death, old age, sickness, accidents or unemployment of such members ;

(*g*) the provision of educational or social benefits for members (including the payment of the expenses of funeral or religious ceremonies for deceased members) ;

(*h*) subject to any conditions contained in the notification, any other object notified by the Government in the official Gazette.

Standing Orders regarding industrial matters.

9. (1) Within three months after the commencement of the Act, the employer in respect of every industrial undertaking ~~employing not less than 100 workmen~~ shall furnish the Commissioner with a statement of standing orders regulating the relations between him and his employees in respect of matters specified in Schedule I of this Act and simultaneously furnish a copy of the same in English and Kannada to the Association of Employees in his concern.

(2) The Association ~~of Employees~~ shall submit to the Commissioner within 15 days of such receipt any points objected to by them as inconsistent with existing

practice. The Commissioner shall thereupon hold a summary enquiry on such points, settle the standing orders as found by him and furnish both to the employer and to the Association ~~of Employees~~ a copy of the standing orders as settled by him.

(3) The Commissioner shall send a copy of standing orders so settled to the Registrar, for registering them in a Register of Standing Orders and Agreements.

(4) The standing orders settled by the Commissioner of Labour under sub-section (2) shall be determinative of the relations between the employer and his employees, in all matters included therein.

Employers or employees desiring change in standing orders and other industrial matters to give notice.

10. (1) Any employer intending to effect any change in any standing order settled under section 9 or in respect of an industrial matter mentioned in schedule II shall give notice of such intention in the prescribed form to the Association ~~of the Employees~~. He shall send a copy of such notice to the Commissioner of Labour, the Chief Conciliator, the Registrar, and to such other person as may be prescribed. He shall also affix a copy of such notice at a conspicuous place in the premises where the employees affected by the change are employed for work and at such other place as may be directed by the Chief Conciliator in any case.

(2) A~~n~~ Registered Association ~~of Employees~~ desiring a change in any such standing order or in respect of any other industrial matter shall give notice in the form prescribed to the employer and shall also forward a copy of the notice to the Commissioner of Labour, the Chief Conciliator, the Registrar, and to such other person as may be prescribed.

(3) The Commissioner shall ascertain within 15 days after the receipt of such notice whether the proposed change is mutually agreed to between the employer and the Association and if so agreed to, send a copy relating to the change to the Registrar for registering it in the Register of Agreements and inform both parties. In case of disagreement within 15 days, he shall report to the Chief Conciliator for initiating conciliation proceedings under the Act.

(4) The employers and the Registered Association shall maintain records of all negotiations with each other and shall produce such records when called upon to do so during any subsequent proceedings under the Act.

Conciliators and Board of Conciliation.

11 (1) The Registrar of Associations shall be *ex-officio* Chief Conciliator of the State.

(2) The Government may, on the recommendation of the Chief Conciliator, appoint a Special Conciliator in respect of any dispute.

(3) During the pendency of any proceedings before the Conciliator under the foregoing provisions, the Government may, and if both the parties agree either prior to the commencement of such proceedings or after the failure of the Conciliator to bring about a settlement, shall refer the dispute to a Board of Conciliation consisting of three independent persons.

Conciliation proceedings.

12. (1) The Conciliator or the Board shall conclude the enquiry within one month of the initiation of conciliation proceedings or the appointment of the Board as the case may be.

(2) If a settlement be reached in the conciliation proceedings, the Conciliator or the Chairman of the Board shall send a report of proceedings with a copy of the Memorandum of Settlement to the Registrar and to both the parties.

(3) The Registrar shall record the settlement in the Register of Agreements.

(4) Where the parties do not come to a settlement, the Conciliator or the Board shall submit a report to Government through the Chief Conciliator and such report shall be published in the official Gazette not later than the second issue after the date of receipt of the report. (5) See below.

Court of Arbitration and proceedings in Arbitration

13. (1) The Government may constitute a Court of Arbitration for determining industrial disputes.

(2) At any time during the progress of the conciliation proceedings, the employer and the Association of Employees concerned may jointly apply to the Chief Conciliator for referring the point in dispute to arbitration, forthwith.

(3) The Chief Conciliator shall thereupon submit the application to the Government who shall refer it to the Court of Arbitration or to the Sole Arbitrator, if one is mentioned in the application.

(4) The Court of Arbitration or the Sole Arbitrator shall certify its or his award to the Registrar and to the parties in dispute.

(5) The Registrar shall record the Award in the Register of Agreements.

~~(5) A copy of the report under subsection (4) may be sent by the Government to the Chief Conciliator the industrial dispute if independent the Government refer the dispute for arbitration to the Court of Arbitration constituted under Section 13.~~

~~The Court of arbitration or the Sole arbitrator shall make the Award within ~~two~~ one months of the reference or within such other time as the Government may from time to time determine~~

(b) (6) The Award shall be binding on the parties to the dispute and on their successors and assigns and shall not be called in question in any Civil or Criminal Court or other judicial proceedings.

14. No notice of change under section 10 shall be given in respect of a matter settled—

(*a*) by an agreement or settlement within six months from its registration, and

(*b*) by an award, within a year from its registration,

provided that by consent of both parties an agreement to modify any such agreement, settlement or award, may be registered at any time.

Nature of proceedings before Conciliator and Court.

15. All proceedings before the Commissioner of Labour or a Conciliator or a Board or a Sole Arbitrator shall be confidential. Proceedings before a Court of Arbitration shall be public except where the Court directs its sittings to be *in camera*.

Commissioner, Conciliator and member of Board to be public servants.

16. The Commissioner, an Assistant Commissioner, a Conciliator, every member of the Board of Conciliation and Sole Arbitrator and every member of the Court of Arbitration shall be deemed to be a public servant within the meaning of Section 21, Indian Penal Code.

Penalty for obstructing any person from carrying out his duties under this Act.

17. Any person who wilfully refuses entry to the Commissioner to any place which he is entitled to enter under section 4 or who fails to produce any document which he is required to produce, or who fails to comply with any requisition or order issued to him by or under the provisions of this Act shall, on conviction, be punishable with fine which may extend to Rs. 100 and in respect of a continuing failure, with an additional fine of Rs. 25 per day for every day during which such failure continues after the last conviction for such failure.

Procedure before the Conciliator and Court.

18. (1) In respect of every proceeding before them, the Conciliator, the Board of Conciliation, the Sole Arbitrator and the Court of Arbitration shall have the same powers as are vested in Courts under the Code of Civil Procedure, in respect of the following matters when trying a suit :—

(*a*) summoning and enforcing the attendance of any person and examining him on oath ;

(*b*) compelling the production of documents ;

(*c*) issuing commissions for the examination of witnesses ;

(*d*) proof of facts by affidavits ;

and shall have such further powers as may be prescribed.

(2) (*a*) Every proceeding before a Court of Arbitration shall be deemed to be a judicial proceeding within the meaning of Sections 192, 193 and 228, Indian Penal Code, and within the meaning of The Mysore Contempt of Courts Act.

(*b*) Parties before the Court of Arbitration may be represented by Counsel.

(3) There shall be no award of costs in any proceeding under the Act.

Information furnished by a party to be treated as confidential.

19. (1) If a party to an industrial dispute giving any information or producing any document in any proceeding under the Act makes a request in writing to the Conciliator, the Board, the Sole Arbitrator or the Court, as the case may be, that such information or the contents of such document may be treated as confidential, the Conciliator, the Board or the Sole Arbitrator or the Court shall direct that such information or document be treated as confidential.

(2) The Conciliator or any member of the Board or Sole Arbitrator or Court or any person present at or concerned in any proceeding under the Act shall not disclose any information or the contents of any document in respect of which a request has been made under sub-section (1) without the consent in writing of the party making the request under the said sub-section.

(3) Nothing in this section shall apply to disclosure of any information or the contents of any document for the purpose of a prosecution under this Act or under any other law for the time being in force.

Penalty for disclosing confidential information.

20. If a Conciliator or a member of a Board or Sole Arbitrator or Court or any person present at or concerned in any proceeding under the Act wilfully discloses any information or the contents of any document in contravention of this Act, he shall, on a complaint made by the party who gave the information or produced the document in such proceeding and on conviction, be punishable with fine which may extend to Rs. 1,000.

Illegal changes.

21. (1) No employer shall make any change in any industrial matter in regard to which a standing order has been settled under section 9 or which is mentioned in Schedule II before the agreement referred in sub-section

3 of section 10 is arrived at or where no such agreement is arrived at before the conciliation proceedings are completed or in cases where the dispute is referred to Aribitration, before the award has been given.

(2) No employer shall make any such change in contravention of the terms of a registered agreement, a settlement or an award.

(3) Any change made in contravention of the provisions of sub-section (1) or (2) shall be illegal.

Penalty fo illegal changes.

22. (1) Any employer who makes any illegal change shall, on conviction, be punishable with fine which may extend to Rs. 5,000 and in the case of a continuing offence with an additional fine which may extend to Rs. 200 per day for every day during which the offence continues after his last conviction for such offence.

(2) An employer who acts in contravention of a standing order settled under section 9 shall, on conviction, be punishable with fine which may extend to Rs. 100 and in the case of continuing contravention of such standing order, with an additional fine which may extend to Rs. 25 per day for every day during which such contravention continues after his last conviction for such contravention.

Employer not to dismiss, reduce or punish an employee for being connected with an association.

23. (1) No employer shall dismiss or reduce any employee or punish him in any other manner by reason of the circumstance that the employee—

(*a*) is an officer or member of a registered Association or of an Association which has applied for being registered under this Act; or

(*b*) is entitled to the benefit of a registered agreement, settlement or award; or

(*c*) has appeared or intends to appear as a witness or has given evidence or intends to give evidence in a proceeding under this Act; or

(*d*) has gone on or joined a strike which is not illegal under the provisions of this Act.

(2) Whoever contravenes the provisions of sub-section (1) shall, on conviction, be punishable with fine which may extend to Rs. 1,000.

(3) Where the offence is one of wrongful dismissal, the Court shall direct that the employer shall pay the dismissed employee wages for the period he is kept out of employment, based on his average wages for the twelve months preceding the date of dismissal.

(4) Where the offence is one of wrongful reduction or other punishment, the Court trying any offence under

this section may direct that out of the fine recovered, such amount as it deems fit shall be paid to the employee concerned as compensation.

Illegal strikes and lock-outs.

24. A strike or a lock-out shall be illegal which has any object other than or in addition to the furtherance of an industrial dispute within the industrial undertaking in which the strikers or employer locking-out are engaged

Illegal strikes.

25 (1) A strike shall be illegal if it is commenced or continued—

(a) without giving notice in accordance with the provisions of section 10, and before the initiation of conciliation proceedings where an agreement is not arrived at;

(b) only for the reason that the employer has not carried out the provisions of any standing order or has made an illegal change;

(c) in cases where conciliation proceedings in regard to the industrial dispute to which the strike relates have commenced, before the expiry of 14 days after the publication of the Report;

(d) in cases where the dispute has been referred to arbitration before an award has been given;

(e) in contravention of the terms of a registered agreement, settlement or award.

(2) In cases where conciliation proceedings in regard to any industrial dispute have been completed, a strike relating to such dispute shall be illegal if it is commenced at any time after the expiry of two months after the publication of the Report.

Illegal lock-outs

26. (1) A lock-out shall be illegal if it is declared, commenced or continued—

(a) without giving notice in accordance with the provisions of section 10, and before the initiation of conciliation proceedings where an agreement is not arrived at;

(b) in cases where conciliation proceedings in regard to the industrial dispute to which the lock-out relates have commenced before the expiry of 14 days after publication of the Report;

(c) in cases where the dispute has been referred to arbitration, before an award has been given;

(d) in contravention of the terms of a registered agreement, settlement or award.

(2) In cases where conciliation procee gs in regard to any industrial dispute have been completed, a lock-out relating to such dispute shall be illegal if it is commenced at any time after the expiry of two months after the publication of the Report.

Penalty for declaring an illegal lock-out.

27. Any employer who has declared a lock-out and continues it after it has been declared by the Registrar to be illegal shall, on conviction, be punishable with fine which may extend to Rs. 2,500 and shall, in addition, be directed by the Court to pay the employees kept out of employment by such lock-out, wages for the period they are so kept out, based on the average earned by each employee during the twelve months preceding the commencement of the lock-out.

Penalty for declaring or commencing an illegal strike.

28. Any employee who has gone on strike and continues to be on strike or who joins a strike, after it has been declared by the Registrar to be illegal shall, on conviction, be punishable with imprisonment of either description for a term which may extend to 15 days or fine which may extend to Rs. 25 and in the case of a continuing offence with an additional fine which may extend to Re. 1 per day for every day during which the offence continues after his last conviction for such offence subject to a maximum of Rs. 50.

Penalty for instigation, etc., of illegal strikes and lock-outs.

29. (*a*) If any person instigates or incites others to take part in, or otherwise, acts in furtherance of, a strike or lock-out which is declared to be illegal by the Registrar, whether such strike or lock-out has commenced or not, he shall, on conviction, be punishable with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Explanation.—For the purpose of this section, a person who contributes, collects or solicits funds for the purpose of any such strike or lock-out shall be deemed to act in furtherance thereof.

(*b*) Any person who instigates or incites an employer or an employee to secure relief in respect of an industrial matter, otherwise than through the provisions of this Act, shall on conviction, be punishable with imprisonment of either description for a term which may extend to three months with fine or with both.

Liability of the executive of an association.

30. Where anything is required to be done by any association by or under any provision of this Act, the person authorised in this behalf by the executive of the

association or if no person is so authorised every member of the executive of the association shall be bound to do the same and shall be personally liable if default is made in the doing of any such thing.

Explanation.—For the purpose of this section, executive of an association means the body by whatever name called to which the management of the affairs of the association is entrusted.

Certain Acts not to apply to Associations.

31. The following Acts, namely,—

(*a*) The Mysore Societies Registration Act,
(*b*) The Mysore Co-operative Societies Act,
(*c*) The Mysore Companies Act, and
(*d*) The Mysore Insurance Act,

shall not apply to any Registered Association and the registration of any Association of Industrial Employees under any such Act shall be void.

32. No organisation of employees other than those constituted under this Act shall be recognised or permitted to be represented in any proceedings under this Act.

Persons acting in good faith not to be sued.

33 No suit or proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Immunity from civil suit in certain cases.

34. (1) No suit or other legal proceeding shall be maintainable in any Civil Court against any registered Association or any officer or member thereof in respect of any act done in contemplation or furtherance of an industrial dispute to which a member of the Association is a party on the ground only that such act induces some other person to break a contract of employment, or that it is in interference with the industry, business or employment of some other person or with the right of some other person to dispose of his capital or of his labour as he wills

(2) A registered Association shall not be liable in any suit or other legal proceeding in any Civil Court in respect of any tortuious act done in contemplation or furtherance of an industrial dispute by an agent of the Association if it is proved that such person acted without the knowledge of, or contrary to express instructions given by the executive of the Association.

35. Notwithstanding anything contained in any other law for the time being in force, an agreement between the members of a registered Association shall not

be void or voidable merely by reason of the fact that any of the objects of the agreement are in restraint of trade :

Provided that nothing in this section shall enable any Civil Court to entertain any legal proceeding instituted for the express purpose of enforcing or recovering damages for the breach of any agreement concerning the conditions on which any member of an Association shall or shall not work, or be employed.

36. No Court inferior to that of a Magistrate of the First Class shall try offences under the Act. Jurisdiction of Court.

37. (1) The Government may make Rules to carry out the purposes of this Act. Rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may be made for all or any of the following matters, namely :—

(*a*) the form in which the certificate of registration may be issued ;

(*b*) the constitution of a Board or Court and the qualifications for a Special Conciliator, or member of a Board or of the Court ;

(*c*) the fee to be paid on applications under the Act ;

(*d*) the manner in which the total number of employees is to be computed for the purposes of this Act ;

(*e*) the other powers of the several authorities under section 18 ;

(*f*) the manner in which standing orders may be submitted under section 9 ;

(*g*) the form in which notice of change is to be given and the persons to whom copies of such notice are to be sent under section 10 ;

(*h*) the form in which a statement of the case is to be forwarded to a Special Conciliator, Board or Court or Sole Arbitrator,

(*i*) the procedure to be followed by the several authorities under the Act ;

(*j*) the registers to be maintained by the employer, and the returns and the information to be periodically furnished by him to the Commissioner of Labour or other authorities for the purposes of this Act ;

(*k*) the officers to be deemed as employers in respect of industrial undertakings owned by the Government : and

(*l*) the form in which the memorandum of agreement, settlement or the award shall be drawn up and the manner in which it shall be recorded and published by the Registrar.

(3) The Government may also prescribe a fine not exceeding one hundred rupees for a breach of any such rule.

(4) The rules made under this section shall be subject to the condition of previous publication in the *Official Gazette.*

SCHEDULE I.

SECTION (9).

1. Classification of employees, *e.g.*, permanent, temporary, apprentices, probationers, etc.
2. Manner of notification to employees of periods and hours of work, holidays, pay days and wage rates.
3. Shift working.
4. Attendance and late coming.
5. Leave and holidays, conditions, procedure and authority to grant.
6. Liability to search and entry into premises by certain gates.
7. Temporary stoppages of work and rights and liabilities of employers and employees arising therefrom.
8. Termination of employment. Notices to be given by employer and employee.
9. Punishment for misconduct and the acts or omissions which constitute misconduct.
10. Means of redress for employees against unfair treatment or wrongful exaction on the part of the employer or his agent or servant.
11. Rules of discipline.

SCHEDULE II.

SECTION (10).

1. Reduction intended to be of permanent or semi-permanent character in the number of persons employed or to be employed not due to *force majeure*.
2. Introduction of rationalisation, efficiency or other new systems of work.
3. Starting, alteration or discontinuance of shift working otherwise than in accordance with the standing orders.
4. Withdrawal of any customary concession or privilege or change in usage.
5. Wages and total weekly hours of work.

PRINTED BY THE SUPERINTENDENT AT THE GOVT. PRESS, BANGALORE.

NOTIFICATION.

In exercise of the powers conferred by sub-section (2) of section 1 of the Mysore Labour (Emergency) Act, 1941 (XX of 1941), the Government of His Highness the Maharaja are pleased to direct that all the provisions of the said Act, except section 9 and the First Schedule thereof, shall come into force throughout Mysore on and from Tuesday the 26th August 1941.

By Order,

Secretary to Government
Law Department.

My dear Sir

I got the
from the Govt Press just now
(9.40 P.M) It will be printed
tomorrow morning and issued
as Gazette Extraord. any
I have submitted the proof
for your consideration

Yours sincerely
H.V. Narayanachar

25-8-44

ACT No. XX of 1941.

The Mysore Labour (Emergency) Act, 1941.

Received the assent of His Highness the Maharaja on the 24th day of August 1941.)

WHEREAS the Government of His Highness the Maharaja is satisfied that circumstances exist which render it necessary to make immediate provision for the promotion of peaceful and amicable settlement of industrial disputes by conciliation and arbitration and the organisation of industrial employees into associations to secure their welfare, and for certain other purposes hereinafter provided;

NOW THEREFORE in exercise of the powers conferred by sub-section (1) of section 31 of the Government of Mysore Act, 1940, (XVIII of 1940);

IT IS hereby enacted as follows.—

Short title.

1. (1) This Act may be called the Mysore Labour Act, 1941.

Commencement, extent and application.

(2) This section shall come into force at once. The Government may, by notification in the official Gazette, apply or any of the other provisions of this Act from such date as may be specified in the notification.

(3) It extends to the whole of Mysore.

(4) It shall apply to all industrial undertakings, whether owned by a person or by a Government or local authority.

Recognition of association of employees.

2. (1) The right of employees in an industrial undertaking to combine into an association for the promotion of their common interests is hereby recognised and declared.

(2) The Government may, on the recommendation of the Commissioner of Labour, extend this right to employees in small industrial undertakings engaged in work of the same nature in any local area or to employees in industrial undertakings engaged in work of the same nature located in different areas.

Definitions.

3. In this Act, unless there is anything repugnant in the subject or context,—

(1) "Award" means any interim or final determination in an Arbitration proceeding under this Act;

(2) "Board" means the Board of Conciliation appointed under this Act;

(3) "Change" means a change in any industrial matter;

(4) "Commissioner of Labour" includes an Assistant Commissioner of Labour;

(5) "Conciliation proceeding" means any proceeding held by a Conciliator or the Board under this Act;

(6) "Conciliator" means any Conciliator appointed under this Act and includes the Chief Conciliator or a Special Conciliator;

(7) "Court" means a Court of Arbitration appointed under this Act;

(8) "Employee" means any person employed to do any skilled or unskilled manual or clerical work for hire or reward in any industry and includes for the purposes of any proceedings under this Act in relation to any industrial dispute an employee discharged on account of such dispute relating to a change in respect of which a notice is given under Section 10 whether before or after the discharge;

(9) "Employer" includes—

(*a*) any agent of an employer;

(*b*) where an industry is conducted or carried on by a department of the Government, the authority prescribed in that behalf, and where no such authority has been prescribed, the head of such department;

(*c*) where an industry is conducted or carried on by or on behalf of a local authority, the Chief Executive Officer of such authority; or

(*d*) where the owner of any industry in the course of or for the purpose of conducting such industry contracts with any other person for the execution by or under the contractor of the whole or any part of any work which is ordinarily part of the said industry, the owner of such industry;

(10) "Industrial dispute" means any dispute or difference between an employer and employee or employees, which is connected with any industrial matter;

(11) "Industrial matter" means any matter relating to work, pay, wages, reward, hours, privileges, rights or duties of employers or employees, or the mode, terms and conditions of employment or non-employment and includes—

(*a*) all matters pertaining to the relationship between employers and employees, or to the dismissal or non-employment of any person;

(*b*) all matters as to the demarcation of functions of any employees or classes of employees;

(*c*) all matters pertaining to any right or claim under or in respect of or concerning an agreement, settlement or award made under this Act, and

(*d*) all questions of what is fair and right in relation to any industrial matter having regard to the interest of the person immediately concerned and of the community as a whole;

(12) "Industrial undertaking" means a unit of industry under one employer in the same city, town or village;

(13) "Industry" includes—

(*a*) any business, trade, manufacture or undertaking or calling of employers; and

(*b*) any calling, service, employment, handicraft or industrial occupation or avocation of employees;

(14) "Local area" means an area notified as such by the Government;

(15) "Lock-out" means the closing of a place or part of a place of employment or the total or partial suspension of work by an employer or the total or partial refusal by an employer to continue to employ persons employed by him, where such closing, suspension or refusal occurs in consequence of an industrial dispute and is intended for the purpose of compelling those persons or of aiding another employer in compelling persons employed by him to accept any term or condition of or affecting employment;

(16) "Member" means a person who is an ordinary member of an association and who is paying subscription of not less than one anna per month and the term "membership" shall be construed accordingly, and shall include an honorary member holding an office in the Association;

(17) "Prescribed" means prescribed by rules made under this Act;

(18) "Registered Association" means an association of employees registered under this Act;

(19) "Registered Agreement" means an agreement registered under Section 10;

(20) "Registrar" means the Registrar of Associations appointed under this Act;

(21) "Schedule" means schedule appended to this Act;

(22) "Settlement" means a settlement arrived at during the course of a conciliation proceeding;

(23) "Strike" means a total or partial cessation of work by employees employed in an industry acting in combination or a concerted refusal or a refusal under a

common understanding of employees to continue to work or to accept work where such cessation or refusal is in consequence of an industrial dispute in any industry and is intended for the purpose of compelling any employer to accept any term or condition of or affecting employment.

Commissioner of Labour: His powers.

4. (1) The Government shall appoint a person as Commissioner of Labour whose jurisdiction shall extend throughout Mysore.

(2) The Government may also appoint for any local area or otherwise one or more Assistant Commissioners of Labour who shall exercise such of the powers and perform such of the duties of the Commissioner as may be delegated by him, and subject to his control and supervision.

(3) For the purpose of exercising his powers and performing his duties, the Commissioner may, after giving reasonable notice, enter any place used for the purpose of any industry or as the office of any Registered Association and shall be entitled to call for and inspect all relevant documents which are necessary for the due discharge of his duties and powers under this Act. The Commissioner may for the same purpose enter, after giving reasonable notice, any premises provided by an employer for the purpose of residence of his employees.

(4) All particulars contained in or information obtained from any document inspected or called for under sub-section (3) shall, if the person in whose possession the document was, so requires, be treated as confidential.

(5) The Commissioner shall be entitled to appear in any proceeding under the Act and also to attend meetings of Registered Associations.

Commissioner's duties.

5. It shall be the duty of the Commissioner to help in organising association of employees in each industrial undertaking employing not less than 100 workmen, and to assist and guide the officers of Registered associations in the discharge of their duties and in developing the work of such associations.

Registrar of Associations of Employees.

6. (1) The Government shall appoint an officer to be Registrar of Associations in the State.

(2) He shall maintain a Register of Associations and such other Registers as may be prescribed.

(3) On receipt of an application from an association of Employees for registration and on payment of the prescribed fee, the Registrar shall, if he is satisfied that

the Association fulfils the prescribed conditions, register the Association and issue a certificate of registration.

(4) Every such Registered Association shall be a body corporate by the name under which it has been registered and shall have perpetual succession and a common seal with power to acquire and hold both movable and immovable property and to contract, and shall by the said name sue and be sued.

Provisions to be contained in the rules of an association.

7. An association shall not be entitled to registration under this Act unless the executive thereof is constituted in accordance with the provisions of this Act, and the rules thereof provide for the following matters, namely,—

(*a*) the name of the Association;

(*b*) the whole of the objects for which the Association has been established;

(*c*) the whole of the purposes for which the general funds of the Association shall be applicable, all of which purposes shall be purposes to which such funds are lawfully applicable under this Act;

(*d*) the maintenance of a list of the members of the Association and adequate facilities for the inspection thereof by the officers and members of the Association;

(*e*) the admission of ordinary members who shall be members actually engaged or employed in the industrial undertaking concerned and also the condition for the admission of honorary members as officers; provided that not more than two such members shall be so admitted into any Association and provided further that no one shall be an honorary member of more than one Association at the same time;

(*f*) the conditions under which any member shall be entitled to any benefit assured by the rules and under which any fine or forfeiture may be imposed on the members;

(*g*) the manner in which the rules shall be amended, varied or rescinded;

(*h*) the manner in which the members of the executive and the other officers of the Association shall be appointed and removed;

(*i*) the safe custody of the funds of the Association, an annual audit, in such manner as may be prescribed, of the accounts thereof and adequate facilities for the inspection of the account books by the officers and members of the Association;

(*j*) the manner in which the Association may be dissolved; and

(*k*) the procedure to be followed before the Association can call a strike, including a secret ballot of the members and the minimum votes necessary.

Objects on which general funds may be spent.

8. The general funds of a registered Association shall not be spent on any other objects than the following, namely:—

(*a*) the payment of salaries, allowances and expenses to officers of the Association;

(*b*) the payment of expenses for the administration of the Association, including audit of the accounts of the general funds of the Association;

(*c*) the prosecution or defence of any legal proceeding to which the Association or any member thereof is a party, when such prosecution or defence is undertaken for the purpose of securing or protecting any rights of the Association as such or any rights arising out of the relations of any member with his employer or with a person whom the member employs;

(*d*) the conduct of labour disputes on behalf of the Association or any member thereof;

(*e*) the compensation of members for loss arising out of labour disputes;

(*f*) allowances to members or their dependents on account of death, old age, sickness, accidents or unemployment of such members;

(*g*) the provision of educational or social benefits for members (including the payment of the expenses of funeral or religious ceremonies for deceased members);

(*h*) subject to any conditions contained in the notification, any other object notified by the Government in the official Gazette.

Standing Orders regarding industrial matters.

9. (1) Within three months after the commencement of the Act, the employer in respect of every industrial undertaking employing not less than 100 workmen shall furnish the Commissioner with a statement of standing orders regulating the relations between him and his employees in respect of matters specified in Schedule I of this Act and simultaneously furnish a copy of the same in English and Kannada to the Registered Association of employees in his concern.

(2) The Association shall submit to the Commissioner within 15 days of such receipt any points objected to by them as inconsistent with existing

practice. The Commissioner shall thereupon hold a summary enquiry on such points, settle the standing orders as found by him and furnish both to the employer and to the Association a copy of the standing orders as settled by him.

(3) The Commissioner shall send a copy of standing orders so settled to the Registrar, for registering them in a Register of Standing Orders and Agreements.

(4) The standing orders settled by the Commissioner of Labour under sub-section (2) shall be determinative of the relations between the employer and his employees, in all matters included therein.

Employers or employees desiring change in standing orders and other industrial matters to give notice.

10. (1) Any employer intending to effect any change in any standing order settled under section 9 or in respect of an industrial matter mentioned in schedule II shall give notice of such intention in the prescribed form to the Registered Association. He shall send a copy of such notice to the Commissioner of Labour, the Chief Conciliator, the Registrar, and to such other person as may be prescribed. He shall also affix a copy of such notice at a conspicuous place in the premises where the employees affected by the change are employed for work and at such other place as may be directed by the Chief Conciliator in any case.

(2) A Registered Association desiring a change in any such standing order or in respect of any other industrial matter shall give notice in the form prescribed to the employer and shall also forward a copy of the notice to the Commissioner of Labour, the Chief Conciliator, the Registrar, and to such other person as may be prescribed.

(3) The Commissioner shall ascertain within 15 days after the receipt of such notice whether the proposed change is mutually agreed to between the employer and the Association and if so agreed to, send a copy relating to the change to the Registrar for registering it in the Register of Agreements and inform both parties. In case of disagreement within 15 days, he shall report to the Chief Conciliator for initiating conciliation proceedings under the Act.

(4) The employers and the Registered Association shall maintain records of all negotiations with each other and shall produce such records when called upon to do so during any subsequent proceedings under the Act.

11. (1) The Registrar of Associations shall be *ex-officio* Chief Conciliator of the State. Conciliators and Board of Conciliation.

(2) The Government may, on the recommendation of the Chief Conciliator, appoint a Special Conciliator in respect of any dispute.

(3) During the pendency of any proceedings before the Conciliator under the foregoing provisions, the Government may, and if both the parties agree either prior to the commencement of such proceedings or after the failure of the Conciliator to bring about a settlement, shall refer the dispute to a Board of Conciliation consisting of three independent persons.

12. (1) The Conciliator or the Board shall conclude the enquiry within one month of the initiation of conciliation proceedings or the appointment of the Board as the case may be. Conciliation proceedings.

(2) If a settlement be reached in the conciliation proceedings, the Conciliator or the Chairman of the Board shall send a report of proceedings with a copy of the Memorandum of Settlement to the Registrar and to both the parties.

(3) The Registrar shall record the settlement in the Register of Agreements.

(4) Where the parties do not come to a settlement, the Conciliator or the Board shall submit a report to Government through the Chief Conciliator and such report shall be published in the official Gazette not later than the second issue after the date of receipt of the report.

13. (1) The Government may constitute a Court of Arbitration for determining industrial disputes. Cour Arbitration and proceedings in Arbitratio a.

(2) At any time during the progress of the conciliation proceedings, the employer and the Association of Employees concerned may jointly apply to the Chief Conciliator for referring the point in dispute to arbitration, forthwith.

(3) The Chief Conciliator shall thereupon submit the application to the Government who shall refer it to the Court of Arbitration or to the Sole Arbitrator, if one is mentioned in the application.

(4) The Court of Arbitration or the Sole Arbitrator shall certify its or his award to the Registrar and to the parties in dispute.

(5) The Registrar shall record the Award in the Register of Agreements.

(6) The Award shall be binding on the parties to the dispute and on their successors and assigns and shall not be called in question in any Civil or Criminal Court or other judicial proceedings.

14. No notice of change under section 10 shall be given in respect of a matter settled—

(*a*) by an agreement or settlement within six months from its registration, and

(*b*) by an award, within a year from its registration,

provided that by consent of both parties an agreement to modify any such agreement, settlement or award, may be registered at any time.

Nature of proceedings before Conciliator and Court.

15. All proceedings before the Commissioner of Labour or a Conciliator or a Board or a Sole Arbitrator shall be confidential. Proceedings before a Court of Arbitration shall be public except where the Court directs its sittings to be *in camera*.

Commissioner, Conciliator and member of Board to be public servants.

16. The Commissioner, an Assistant Commissioner, a Conciliator, every member of the Board of Conciliation and Sole Arbitrator and every member of the Court of Arbitration shall be deemed to be a public servant within the meaning of Section 21, Indian Penal Code.

Penalty for obstructing any person from carrying out his duties under this Act.

17. Any person who wilfully refuses entry to the Commissioner to any place which he is entitled to enter under section 4 or who fails to produce any document which he is required to produce, or who fails to comply with any requisition or order issued to him by or under the provisions of this Act shall, on conviction, be punishable with fine which may extend to Rs. 100 and in respect of a continuing failure, with an additional fine of Rs. 25 per day for every day during which such failure continues after the last conviction for such failure.

Procedure before the Conciliator and Court.

18. (1) In respect of every proceeding before them, the Conciliator, the Board of Conciliation, the Sole Arbitrator and the Court of Arbitration shall have the same powers as are vested in Courts under the Code of Civil Procedure, in respect of the following matters when trying a suit :—

(*a*) summoning and enforcing the attendance of any person and examining him on oath ;

(*b*) compelling the production of documents ;

(*c*) issuing commissions for the examination of witnesses ;

(*d*) proof of facts by affidavits;

and shall have such further powers as may be prescribed.

(2) (*a*) Every proceeding before a Court of Arbitration shall be deemed to be a judicial proceeding within the meaning of Sections 192, 193 and 228, Indian Penal Code, and within the meaning of The Mysore Contempts of Courts Act.

(*b*) Parties before the Court of Arbitration may be represented by Counsel.

(3) There shall be no award of costs in any proceeding under the Act.

Information furnished by a party to be treated as confidential.

19. (1) If a party to an industrial dispute giving any information or producing any document in any proceeding under the Act makes a request in writing to the Conciliator, the Board, the Sole Arbitrator or the Court, as the case may be, that such information or the contents of such document may be treated as confidential, the Conciliator, the Board or the Sole Arbitrator or the Court shall direct that such information or document be treated as confidential.

(2) The Conciliator or any member of the Board or Sole Arbitrator or Court or any person present at or concerned in any proceeding under the Act shall not disclose any information or the contents of any document in respect of which a request has been made under sub-section (1) without the consent in writing of the party making the request under the said sub-section.

(3) Nothing in this section shall apply to disclosure of any information or the contents of any document for the purpose of a prosecution under this Act or under any other law for the time being in force.

Penalty for disclosing confidential information

20. If a Conciliator or a member of a Board or Sole Arbitrator or Court or any person present at or concerned in any proceeding under the Act wilfully discloses any information or the contents of any document in contravention of this Act, he shall, on a complaint made by the party who gave the information or produced the document in such proceeding and on conviction, be punishable with fine which may extend to Rs. 1,000.

Illegal changes.

21. (1) No employer shall make any change in any industrial matter in regard to which a standing order has been settled under section 9 or which is mentioned in Schedule II before the agreement referred in sub-section

3 of section 10 is arrived at or where no such agreement is arrived at before the conciliation proceedings are completed or in cases where the dispute is referred to Aribitration, before the award has been given.

(2) No employer shall make any such change in contravention of the terms of a registered agreement, a settlement or an award.

(3) Any change made in contravention of the provisions of sub-section (1) or (2) shall be illegal.

Penalty for illegal changes.

22. (1) Any employer who makes any illegal change shall, on conviction, be punishable with fine which may extend to Rs. 5,000 and in the case of a continuing offence with an additional fine which may extend to Rs. 200 per day for every day during which the offence continues after his last conviction for such offence.

(2) An employer who acts in contravention of a standing order settled under section 9 shall, on conviction, be punishable with fine which may extend to Rs. 100 and in the case of continuing contravention of such standing order, with an additional fine which may extend to Rs. 25 per day for every day during which such contravention continues after his last conviction for such contravention.

Employer not to dismiss, reduce or punish an employee for being connected with an association.

23. (1) No employer shall dismiss or reduce any employee or punish him in any other manner by reason of the circumstance that the employee—

(*a*) is an officer or member of a registered Association or of an Association which has applied for being registered under this Act; or

(*b*) is entitled to the benefit of a registered agreement, settlement or award; or

(*c*) has appeared or intends to appear as a witness or has given evidence or intends to give evidence in a proceeding under this Act; or

(*d*) has gone on or joined a strike which is not illegal under the provisions of this Act.

(2) Whoever contravenes the provisions of sub-section (1) shall, on conviction, be punishable with fine which may extend to Rs. 1,000.

(3) Where the offence is one of wrongful dismissal, the Court shall direct that the employer shall pay the dismissed employee wages for the period he is kept out of employment, based on his average wages for the twelve months preceding the date of dismissal.

(4) Where the offence is one of wrongful reduction or other punishment, the Court trying any offence under

this section may direct that out of the fine recovered, such amount as it deems fit shall be paid to the employee concerned as compensation.

24. A strike or a lock-out shall be illegal which has any object other than or in addition to the furtherance of an industrial dispute within the industrial undertaking in which the strikers or employer locking-out are engaged. Illegal strikes and lock-outs

25. (1) A strike shall be illegal if it is commenced or continued— Illegal strikes

(*a*) without giving notice in accordance with the provisions of section 10, and before the initiation of conciliation proceedings where *an* agreement is not arrived at;

(*b*) only for the reason that the employer has no carried out the provisions of any standing order or has made an illegal change;

(*c*) in cases where conciliation proceedings in regard to the industrial dispute to which the strike relates have commenced, before the expiry of 14 days after the publication of the Report;

(*d*) in cases where the dispute has been referred to arbitration before an award has been given;

(*e*) in contravention of the terms of a registered agreement, settlement or award.

(2) In cases where conciliation proceedings in regard to any industrial dispute have been completed, a strike relating to such dispute shall be illegal if it is commenced at any time after the expiry of two months after the publication of the Report.

26. (1) A lock-out shall be illegal if it is declared, commenced or continued— Illegal lock-outs.

(*a*) without giving notice in accordance with the provisions of section 10, and before the initiation of conciliation proceedings where an agreement is not arrived at;

(*b*) in cases where conciliation proceedings in regard to the industrial dispute to which the lock-out relates have commenced before the expiry of 14 days after publication of the Report;

(*c*) in cases where the dispute has been referred to arbitration, before an award has been given;

(*d*) in contravention of the terms of a registered agreement, settlement or award.

(2) In cases where conciliation proceedings in regard to any industrial dispute have been completed, a lock-out relating to such dispute shall be illegal if it is commenced at any time after the expiry of two months after the publication of the Report.

Penalty for declaring an illegal lock-out.

27. Any employer who has declared a lock-out and continues it after it has been declared by the Registrar to be illegal shall, on conviction, be punishable with fine which may extend to Rs. 2,500 and shall, in addition, be directed by the Court to pay the employees kept out of employment by such lock-out, wages for the period they are so kept out, based on the average earned by each employee during the twelve months preceding the commencement of the lock-out.

Penalty for declaring or commencing an illegal strike.

28. Any employee who has gone on strike and continues to be on strike or who joins a strike, after it has been declared by the Registrar to be illegal shall, on conviction, be punishable with imprisonment of either description for a term which may extend to 15 days or fine which may extend to Rs. 25 and in the case of a continuing offence with an additional fine which may extend to Re. 1 per day for every day during which the offence continues after his last conviction for such offence subject to a maximum of Rs. 50.

Penalty for instigation, etc., of illegal strikes and lock-outs.

29. (*a*) If any person instigates or incites others to take part in, or otherwise, acts in furtherance of, a strike or lock-out which is declared to be illegal by the Registrar, whether such strike or lock-out has commenced or not, he shall, on conviction, be punishable with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Explanation.—For the purpose of this section, a person who contributes, collects or solicits funds for the purpose of any such strike or lock-out shall be deemed to act in furtherance thereof.

(*b*) Any person who instigates or incites an employer or an employee to secure relief in respect of an industrial matter, otherwise than through the provisions of this Act shall, on conviction, be punishable with imprisonment of either description for a term which may extend to three months with fine or with both.

Liability of the executive of an association.

30. Where anything is required to be done by any association by or under any provision of this Act, the person authorised in this behalf by the executive of the

association or if no person is so authorised every member of the executive of the association shall be bound to do the same and shall be personally liable if default is made in the doing of any such thing.

Explanation.—For the purpose of this section, executive of an association means the body by whatever name called to which the management of the affairs of the association is entrusted.

Certain Acts not to apply to Associations.

31. The following Acts, namely,—

(*a*) The Mysore Societies Registration Act,
(*b*) The Mysore Co-operative Societies Act,
(*c*) The Mysore Companies Act, and
(*d*) The Mysore Insurance Act,

shall not apply to any Registered Association and the registration of any Association of Industrial Employees under any such Act shall be void.

32. No organisation of employees other than those constituted under this Act shall be recognised or permitted to be represented in any proceedings under this Act.

Persons acting in good faith not to be sued.

33. No suit or proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Immunity from civil suit in certain cases.

34. (1) No suit or other legal proceeding shall be maintainable in any Civil Court against any registered Association or any officer or member thereof in respect of any act done in contemplation or furtherance of an industrial dispute to which a member of the Association is a party on the ground only that such act induces some other person to break a contract of employment, or that it is in interference with the industry, business or employment of some other person or with the right of some other person to dispose of his capital or of his labour as he wills.

(2) A registered Association shall not be liable in any suit or other legal proceeding in any Civil Court in respect of any tortuous act done in contemplation or furtherance of an industrial dispute by an agent of the Association if it is proved that such person acted without the knowledge of, or contrary to express instructions given by the executive of the Association.

Enforcement of agreements.

35. Notwithstanding anything contained in any other law for the time being in force, an agreement between the members of a registered Association shall not

be void or voidable merely by reason of the fact that any of the objects of the agreement are in restraint of trade

Provided that nothing in this section shall enable any Civil Court to entertain any legal proceeding instituted for the express purpose of enforcing or recovering damages for the breach of any agreement concerning the conditions on which any member of an Association shall or shall not work, or be employed.

Jurisdiction of Court.

36. No Court inferior to that of a Magistrate of the First Class shall try offences under this Act.

Rules.

37. (1) The Government may make Rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may be made for all or any of the following matters, namely :–

(*a*) the form in which the certificate of registration may be issued;

(*b*) the constitution of a Board or Court and the qualifications for a Special Conciliator, or member of a Board or of the Court;

(*c*) the fee to be paid on applications under the Act;

(*d*) the manner in which the total number of employees is to be computed for the purposes of this Act;

(*e*) the other powers of the several authorities under section 18;

(*f*) the manner in which standing orders may be submitted under section 9;

(*g*) the form in which notice of change is to be given and the persons to whom copies of such notice are to be sent under section 10;

(*h*) the form in which a statement of the case is to be forwarded to a Special Conciliator, Board or Court or Sole Arbitrator;

(*i*) the procedure to be followed by the several authorities under the Act;

(*j*) the registers to be maintained by the employer, and the returns and the information to be periodically furnished by him to the Commissioner of Labour or other authorities for the purposes of this Act;

(*k*) the officers to be deemed as employers in respect of industrial undertakings owned by the Government; and

(*l*) the form in which the memorandum of agreement, settlement or the award shall be drawn up and the manner in which it shall be recorded and published by the Registrar.

(3) The Government may also prescribe a fine not exceeding one hundred rupees for a breach of any such rule.

(4) The rules made under this section shall be subject to the condition of previous publication in the *Official Gazette.*

SCHEDULE I.

SECTION (9).

1. Classification of employees, *e.g.*, permanent, temporary, apprentices, probationers, etc.
2. Manner of notification to employees of periods and hours of work, holidays, pay days and wage rates.
3. Shift working.
4. Attendance and late coming.
5. Leave and holidays, conditions, procedure and authority to grant.
6. Liability to search and entry into premises by certain gates.
7. Temporary stoppages of work and rights and liabilities of employers and employees arising therefrom.
8. Termination of employment. Notices to be given by employer and employee.
9. Punishment for misconduct and the acts or omissions which constitute misconduct.
10. Means of redress for employees against unfair treatment or wrongful exaction on the part of the employer or his agent or servant.
11. Rules of discipline.

SCHEDULE II.

SECTION (10).

1. Reduction intended to be of permanent or semi-permanent character in the number of persons employed or to be employed not due to *force majeure.*

2. Introduction of rationalisation, efficiency or other new systems of work.

3. Starting, alteration or discontinuance of shift working otherwise than in accordance with the standing orders.

4. Withdrawal of any customary concession or privilege or change in usage.

5. Wages and total weekly hours of work.

(Sd.) N. MADHAVA RAU,

Dewan.

Rl 463 dated 28.8.41

NOTIFICATION.

In exercise of the powers conferred by sub-section (2) of section 1 of the Mysore Labour Act, 1941 (XX of 1941), the Government of His Highness the Máharaja are pleased to direct that all the provisions of the said Act, except section 9 and the First Schedule thereof, shall come into force throughout Mysore on and from ~~Tuesday~~ Thursday the 28th August 1941.

By Order,

Secretary to Government,
Law Department.

WHEREAS it is expedient to make provision for the promotion of peaceful and amicable settlement of industrial disputes by conciliation and arbitration and the organisation of industrial employees into associations on proper lines to secure their welfare and for certain other purposes, hereinafter provided, it is hereby enacted as follows:

Short title.

1. (1). This Act may be called the Workers Labour Act, 1941.

Commencement.

(2) It shall come into force at once.
(3) It extends to the whole of Nigeria.
(4) It shall apply to all industrial undertakings whether owned by private persons or by a Government or local authority.

Recognition of association of employees.

2. (1) The right of employees in an industrial undertaking to combine themselves into an association for the protection of their common interests is hereby recognised and declared.

(2) The Governor may on the recommendation of the Commissioner of Labour extend this right to employees in small industrial establishments of a similar nature in any local area or to employees in industrial establishments of a similar nature located in different areas.

3. In this Act unless there is anything repugnant in

(1) "award" means any interim or final determination by a Court of Arbitration under this Act.

(2) "board" means the Board of Conciliation appointed under this Act.

5. "Change" means a change in any industrial matter.

(6). "Commissioner of Labour" includes an Assistant Commissioner of Labour.

(5) "Conciliation proceeding" means any proceeding held by a Conciliator or the Board under this Act.

(6). "~~Commissioner~~"Conciliator" means any Conciliator appointed under this Act and includes the Chief Conciliator or a Special Conciliator.

(7) "Court" means a Court of Arbitration - appointed under this Act.

(8) "Employee" means any person employed to do any skilled or unskilled manual or clerical work for hire or reward in any industry and includes an employee discharged on account of any dispute relating to a change in respect of which a notice is given under section 5 whether before or after the discharge.

"Employer" includes--

(a) any agent of an employer;

(b) where an industry is conducted or carried on by a department of the Government, the authority prescribed in that behalf, and where no such authority has been prescribed, the head of such department;

(c) where an industry is conducted or carried on by or on behalf of a local authority, the Chief Executive Officer of such authority; or

(d) where the owner of any industry in the course of or for the purpose of conducting such industry contracts with any other person for the execution by or under the contractor of the whole or any part of any work which is ordinarily part of the main industry, the owner of such industry.

(10) "Industrial dispute" means any dispute or difference between an employer and employee or employees, which is connected with any industrial matter.

(11) "Industrial matter" means any matter relating to work, pay, wages, reward, hours, privileges, rights or duties of employers or employees, or the rates, terms and conditions of employment or non-employment and includes--

(a) all matter pertaining to the relationship between employers and employees, or to the dismissal or non-employment of any person;

(b) all matters as to the designation or transfer of any employees or classes of employees

(c) all matters pertaining to any right or claim under or in respect of or concerning an agreement, submission or award made under this act and

(d) all questions of what is fair and right in relation to any industrial matter having regard to the interest of the persons immediately concerned and of the community as a whole.

(12). "Industry" includes-

(a) any business, trade, manufacture or undertaking or calling of employers and

(b) any calling, service, employment, handicraft or industrial occupation or avocation of employees.

(13) "Local area" means any area notified as such by the government.

(14). "Lock-out" means the closing of a place or part of a place of employment or the total or partial suspension of work by an employer or the total or partial refusal by an employer to continue to employ persons employed by him, where such closing, suspension or refusal occurs in consequence of an industrial dispute and is intended for the purpose of compelling those persons or of aiding another employer in compelling persons employed by him to accept any term or condition of or affecting employment.

(15) "Member" means a person who is an ordinary member of an association and who has been paying a subscription of not less than one anna per month and the term "membership" shall be construed accordingly.

(16) "Prescribed" means prescribed by rules made under this act.

(17) "Registered agreement" means an agreement registered under section

(18) "Registered ~~agreement~~ association" or "association" means an association of employees registered under this act.

(19) "Registrar" means the Registrar of associations appointed under this act.

(20) "Schedule" means schedule appended to this act.

(21) "Settlement" means a settlement arrived at during the course of a conciliation proceeding.

(22). "Strike" means a total or partial cessation of work by employees employed in an industry acting in combination, or a concerted refusal or a refusal under a common understanding of employees to continue to work or to accept work where such cessation or refusal is in consequence of an industrial dispute in any industry.

Commissioner of Labour: his powers.

4.(1). The Government shall appoint a person as Commissioner of Labour whose jurisdiction shall extend throughout the State.

(2) The Government may also appoint for any local area or otherwise one or more Assistant Commissioners of Labour who shall exercise such of the powers and perform such of the duties of the Commissioner as may be delegated by him, and subject to his control and supervision.

(3) For the purpose of exercising his powers and performing his duties, the Commissioner may, after giving reasonable notice, enter any place used for the purpose of any industry or at the office of any Association and shall be entitled to call for and inspect all relevant documents which are necessary for the due enforcement or the provisions of this Act. The Commissioner may for the same purpose enter after giving reasonable notice, any premises provided by an employer for the purpose of residence of his employees.

(4) The particulars contained in or information obtained from any document inspected or called for under sub-section (3) shall, if the person in whose possession the document was so required, be treated as confidential

(5) The Commissioner shall be entitled to have access to any proceeding under the Act and to represent the interests of labour and the general public.

the interests of labour and the general public.

Commissioner's duties.

5. It shall be the duty of the Commissioner to help the organising of associations of employees in each industrial undertaking employing not less than 100 workmen, and to assist and guide the officers of such associations in the discharge of their duties and in developing the work of the associations.

Registrar of Associations.

6 (1). The Commissioner of Labour shall be ex-officio Registrar of Associations of Employees in the State.

(2) He shall maintain a Register of Associations and such other Registers as may be prescribed.

(3) On receipt of an application from an association for registration and on payment of the prescribed fee, the Registrar shall, if he is satisfied that the Association fulfils the prescribed conditions, register the association and issue a certificate of registration.

(4) Every such Registered Association shall be a Body Corporate by the name under which it has been registered and shall have perpetual succession and a common seal with power to acquire and hold both movable and immovable property and to contract and shall by the said name sue and be sued.

Standing order regarding industrial matters.

7 (1). Within two months after the commencement of the Act, the employer in respect of every industrial undertaking employing not less than 100 workmen shall furnish the Commissioner with a statement of standing orders in his concern in respect of matters specified in Schedule I of this Act and

and simultaneously furnish a copy of the same in English and Kannada to the Association of Employees in his concern.

(3) The Commissioner shall within a month of the receipt of such statement hold a summary enquiry on any points objected to by the Association of Employees and furnish both to the employer and to the Association of Employees a copy of the Standing Orders as settled by him.

(4) The Commissioner shall record the standing orders so settled in a Register of Standing Orders and Agreements.

(5) The standing orders settled by the Commissioner of Labour under sub-section (2) shall be mutatis mutandis of the relations between the employer and his employees.

Employees desiring change in standing orders to give notice.

6. (1) Whenever any employer or association of employees desires to effect a change in the standing orders in force in respect of matters covered by Schedule I of the Act or in the existing conditions in respect of any matters referred to in Schedule II of the Act, the employer shall give notice of the proposed change to the Association or the Association to the employer as the case may be, and simultaneously furnish a copy of such notice to the Commissioner of Labour.

(2) The Commissioner shall ascertain within 15 days after the receipt of such notice whether the proposed change is mutually agreeable between the employer and the Association and if so agreed to, register it in the register of Agreements and inform both parties. In case of disagreement, he shall initiate conciliation proceedings under the Act.

Conciliators & Board of Conciliation.

9. (1). The Commissioner shall be ex-officio

Chief Conciliator of the [illegible] shall be ex-officio Concil Commissioners [illegible] respect of the concerns falling within their Jurisdiction.

(2) The Government may on the recommendation of the Commissioner of Labour appoint a special Conciliator in respect of any dispute

(3) If either of the parties desires conciliation by a Board, the Chief Conciliator shall move the Government which shall thereupon constitute a Board of Conciliation consisting of three independent persons.

Conciliation proceedings

10(1) The Conciliator or the Board shall come to a decision after enquiry in the prescribed manner within two months of the initiation of conciliation proceedings or the appointment of the Board as the case may be.

(2) If a settlement be reached in the conciliation proceedings, the Conciliator or the Chairman of the Board shall send a report of proceedings with a copy of the Memorandum of Settlement to the Registrar and to both the pa

(3) The Registrar shall record the settlement in the Register of Agreements.

(4) Where the parties do not come to a settlement, the Conciliator or the Board sh record his or its findings and submit a rep to Government through the Chief Conciliato such report shall be published in the Offic Gazette.

Procedings in Arbitration

11(1) The Government may constitute a of Arbitration for determining industrial dis

(2) In addition to the publishing of re port under section 10(3), the Government may their discretion, refer the point in diff a Court of Arbitration.

(3) At any time during the progress of the conciliation proceedings, the employer and the Association of Employees concerned may jointly apply to the Chief Conciliator for referring the point in dispute to arbitration, forthwith.

4) The Chief Conciliator shall thereupon submit the application to the Government who shall refer it to the Court of Arbitration.

5) The Court of Arbitration shall certify its award to the Registrar and to the parties in dispute.

(6) The Registrar shall record the Award in the Register of Agreements.

(7) The Award shall be binding on the parties to the dispute and on their successors and assigns and shall not be called in question in any civil or Criminal Court or other judicial proceedings.

Nature of proceedings before Conciliator and Court

12. All proceedings before the Commissioner of Labour or a Conciliator or a Board shall be confidential. Proceedings before a Court of Arbitration shall be public except where the Court directs its sittings to be in camera.

Commissioner, Conciliator and member of Board to be public servants.

13. The Commissioner, an Assistant Commissioner a Conciliator, every member of the Board of Conciliation (a Sole or Joint Board) and every member of the Court of Arbitration shall be deemed to be a public servant within the meaning of section 21, Indian Penal Code.

Penalty for obstructing any person from carrying out his duties or who det.

14. Any person who wilfully refused entry to the Commissioner to any place which he is entitled to enter under Section 4 or who fails to produce any

document which he is required to produce, or who fails to comply with any requisition or order issued to him by or under the provisions of this Act shall, on conviction, be punishable with fine which may extend to Rs.500/

Procedure before Commissioner, Conciliator and Court.

) (1) In respect of every proceeding before them, the ~~Commissioner~~, the Conciliator, the Board of Conciliation, Sole arbitrator and the Court of Arbitration shall have the same powers as are vested in Courts under the Code of Civil Procedure, in respect of the following matters when trying a suit:-

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) compelling the production of documents;

(c) issuing commissions for the examination of witnesses;

(d) proof of facts by affidavits;

and shall have such further powers as may be prescribed.

(2) Every proceeding before a Court of Arbitration shall be deemed to be a judicial proceeding within the meaning of sections 193, 196, and 228, Indian Penal Code, and within the meaning of the Mysore Contempt of Courts Act.

(3). A Court of Arbitration shall have powers to direct by whom the whole or any part of the costs of a proceeding referred to it by Government under section 10(1) shall be paid. ~~There shall be~~ no award of costs in any other proceeding under the Act. An order for costs made by a Court of Arbitration shall be executed by the Civil Court within whose jurisdiction any person directed by such order to pay such costs has a place of residence or business in the same manner as if it was a decree made by itself

Inf... furnished by party to be treated as confidential.

16. (1). If a party to an industrial dispute gives any information or producing any document in any proceeding under the Act makes a request in writing to the Conciliator, the Board or the Court, the case may be, that such information or the contents of such document may be treated as confidential, the Conciliator, the Board or the Court shall direct that such information or documents be treated as confidential.

(2). The Conciliator or any member of the Board or Court or any person present at or concerned in any proceeding under the Act shall not disclose an information or the contents of any document in resp - of which a request has been made under sub-sectio (1) without the consent in writing of the party making the request under the said sub-section.

(3) Nothing in this section shall apply to disclosure of any information or the contents of any document for the purpose of a prosecution under this Act or under any other law for the time being in force.

Penalty for disclosing confidential information.

17. If a Conciliator or a member of a Board or Court or any person present at or concerned in any proceeding under the Act wilfully discloses any information or the contents of any document in contravention of this Act, he shall, on a complaint made by the party who gave the information or produced the document in such proceeding and on conviction, be punishable with fine which may extend to Rs.1,000/-.

Illegal change

18(1). No employer shall make any change in any industrial matter in regard to which a standing order has been settled under Section 7 or which is mentioned in schedule II before the agreement referred to in

sub-section (2) of section 8 is arrived at or where no such determination is arrived at before the conciliation proceedings are completed or in cases where the dispute is referred to a court of adjudication, notwithstanding anything contained therein.

(4) An employer could challenge such order in contravention of the terms of a registered agreement, a settlement or an award.

(5) Any employer who is responsible for the provisions of sub-section (1) or (3) shall be liable.

19. (1) Any employer who makes any illegal change shall, on conviction, be punishable with fine which may extend to Rs.5,000 and in the case of a continuing offence with an additional fine which may extend to Rs.100 per day for every day during which the offence continues after his last conviction for such offence.

(2) An employer who acts in contravention of a standing order contrary to section 7 shall, on conviction, be punishable with fine which may extend to Rs.100 and in the case of a continuing contravention of such standing order, with an additional fine which may extend to Rs.25 per day for every day during which such contravention continues after his last conviction for such contravention.

Employer not to discharge, refuse or punish an employee for being connected with an action.

20. (1) No employer shall discharge or refuse any employee or punish him in any manner by reason of circumstance that an employee—

(a) is an officer or member of a registered association or of an association which has applied for being registered under this Act; or

b) is entitled to the benefit of a registered agreement, ~~settlement~~ or award; or

c) has appeared or intends to appear as a witness or has given evidence or intends to give evidence in a proceeding under this Act;

d) is an officer or member of an organisation the object of which is to secure better industrial conditions; or

is an officer or member of an organisation which is not declared unlawful;

f) has gone on or joined a strike which is not illegal under the provisions of this Act

or contravenes any provisions of this section

(1) shall, on conviction, be punishable with fine which may extend to £100.

(2) The Court trying any offence under this section may direct that out of wages recovered, ~~the sum as it deems fit shall~~ be paid to the employee concerned as compensation.

(3) Where the offence is one of wrongful dismissal, the Court may in addition direct that the employer shall pay the dismissed employee wages for the period he is kept out of employment, based on his average wages for the twelve months preceding the date of dismissal.

Strikes & lock-outs

21. A strike or lock-out shall be illegal which has object other than or in addition to the furtherance of an industrial dispute within the industry in which the strikers or employers locking-out are engaged, or

Illegal strikes.

22. (1). A strike shall be illegal if it is commenced, but unless—

(a) without giving notice in accordance with the provisions of section 2, and before the initiation of conciliation proceedings thereunder

settlement is not arrived at:

(b) only for a reason that the employer has not carried out the provisions of any award in order or has made an illegal change;

(c) in cases where conciliation proceedings in regard to the industrial dispute to which the strike rule or lock-out relates have commenced, before the completion of such proceedings;

(d) in cases where conciliation proceedings in regard to the industrial dispute to which the strike rules or lock-out relates have commenced, before the completion of such proceedings;

in cases where the dispute has been referred to a Court of Arbitration before such Court has given its award;

in contravention of the terms of a registered agreement, settlement or award.

(2) In cases where conciliation proceedings in regard to any industrial dispute have been concluded, a strike relating to such dispute shall be illegal if it is commenced at any time during the pendency of any lawful [illegible] such proceedings.

Illegal lock-out

(1) A lock-out shall be illegal if it is declared, commenced or continued—

(a) without giving notice in accordance with the provisions of section 8, and before the initiation of conciliation proceedings where a settlement is not arrived at;

(b) in cases where conciliation proceedings in regard to the industrial dispute to which the lock-out relates have commenced, before the completion of such proceedings;

(c) in cases where the dispute has been referred to a Court of Arbitration, before such Court has given its award;

(d) in contravention of the terms of a registered agreement, settlement or award.

(2) In cases where conciliation proceedings in regard to any industrial dispute have been concluded, a lock-out remain-

relating to such dispute shall be illegal if it is co[illegible] at any time after [illegible] ary of two months after the [illegible] tion of such proceedings.

Penalty for declaring illegal lock-out.

[illegible] Registrar [illegible] declares it after it has been declared by the Registrar [illegible] about to be illegal shall, on conviction, be punishable [illegible] to a fine not exceeding [illegible] and shall be a fine, to directed by the Court to pay the employer [illegible] or organization of such lock-out wages for the period they are to work out, based on the average as so earned during [illegible] the twelve months preceding the commencement of the lock-out.

Illegal strikes or lock-outs. [illegible] strike or lock-out has been declared by the Registrar [illegible] about to be illegal shall, on conviction, be punishable with imprisonment of either description for a term which may be [illegible] or fine which may extend to [illegible] (illegible)

Penalty for [illegible] illegal strike or lock-out.

[illegible] person instigating or inciting others to take part in, or otherwise acts in furtherance of, a strike or lock-out which is declared to be illegal by the Registrar ~~Commissioner of Labour~~, whether such strike or lock-out has commenced or not, he shall, on conviction, be punished by imprisonment of either description for a term which may be three months, or with fine, or with both.

Explanation:- For the purposes of this section, person who contributes, collects or solicits funds for the purpose of any such strike or lock-out shall be deemed to act in furtherance thereof.

Liability of the executive of an association.

29. Where anything is required to be done by any association by or under any provision of this Act, the person authorised in this behalf by the Executive of the association or if no person is so authorised every member of the executive of the association shall be bound to do the same and shall be personally liable if default is made in the doing of any such thing.

Explanation.- For the purposes of this section, executive of an association means the body by whatever name called to which the management of the affairs of the association is entrusted.

30. The Government may, by notification in the Official Gazette, at any time, make any additions or alterations in the financial matters specified in Schedule I or II or make a fresh statement of any such matters: provided that before making such addition, alteration or deletion, a draft of such addition, alteration or deletion shall be published for the information of all persons likely to be affected thereby and the Government shall consider any objection or suggestion that may be received by it from any person with respect thereto.

31. The following Acts, namely:-

(a) The Mysore Societies Registration Act,

(b) The Mysore Co-operative Societies Act,

(c) The Mysore Companies Act and

(d) The Mysore Insurance Act,

not apply to any Registered Association and the registration of any Association of Industrial Employees under any such Act shall be void.

Bar of suits or proceedings against persons acting in good faith to be done.

32. No suit or proceeding shall be against any person for anything which is in good faith done or intended to be done under this Act.

Immunity from civil suit in certain cases.

31. (1) No suit or other legal proceeding shall be maintainable in any Civil Court against any registered association or any officer or member thereof in respect of any act done in contemplation or furtherance of an industrial dispute to which a member of the association is a party on the ground only that such act induces some other person to break a contract of employment, or that it is an interference with the business, business or employment of some other person or shall lead to persuade some other person to withdraw his capital or his labour or to do so.

(2) A registered association shall not be liable in any suit or other legal proceeding in any Civil Court in respect of any tortious act done in contemplation or furtherance of an industrial dispute by an agent of the association if it is proved that such person acted without the knowledge of, or contrary to express instructions given by the executive of the association.

Unenforceability of agreements.

31. Notwithstanding anything contained in any other law for the time being in force, an agreement between the members of a registered association shall not be void or voidable merely by reason of the fact that any of the objects of the agreement are in restraint of trade:

Provided that nothing in this section shall enable any civil court to entertain any legal proceedings instituted for the express purpose of enforcing or recovering damages for the breach of any agreement concerning the conditions on which any members of an Association shall or shall not work, or be employed.

32. No Court inferior to that of a Magistrate of the First Class shall try offences under the Act.

33. (1) The Government may make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may be made for all or any of the following matters, namely:

(a) The manner in which the association or employees shall be constituted.

(b) The objects that may be inserted in the rules of such Association, the other matters to be provided in the rules, the accounts and registers to be maintained in respect of its business, and the returns and information to be furnished to the Registrar.

(c) The custody of the funds and property of an association and the objects for which such funds may be spent.

(d) The audit of the accounts of an association.

(e) The form in which the certificate of registration may be issued.

(f) The constitution of a Board or Court and the qualifications for a Special Conciliator, or member of a Board or of a Court.

The fee to be paid on applications for (f).

(h) the manner in which the total number of employees is to be computed for the purposes of this Act,

(i) the other powers of the several authorities under section 10,

(j) the manner in which standing orders may be submitted under section 7,

(k) the form in which notice of change is to be given and the persons to whom copies of such notice are to be sent under section 6,

(l) the form in which a statement of the case is to be forwarded to a special conciliator, board or court,

the procedure to be followed by the several authorities under the Act,

(m) the registers to be maintained by the employer, and the returns and information to be periodically furnished by him to the Commissioner of Labour or some other authorities for the purposes of this

(n) the officials to be deemed as agents in respect of industrial matters [illegible] by the Government and

(p) the form in which the name of a statement of the award shall be drawn up and the manner in which it shall be [illegible] and published by the Commissioner of Labour.

The Government may also prescribe a fine not exceeding five [illegible] and [illegible] for a breach of any such rule.

The rules made under this section shall be subject to the condition of previous publication in the Official Gazette.

SCHEDULE

Section 7.

1. Classification of employees e.g. permanent, temporary, apprentices, probationers, casuals etc.

Manner of notification to employees of periods and hours of work, holidays, rest days and wage rates.

Shift working.

Absenteeism and late coming.

Leave and holidays, conditions, procedure and authority to grant.

6. Liability to search and entry into premises by certain persons

7. Temporary suspension of work and rights and liabilities of employers and employees arising therefrom.

8. Termination of employment. Notice to be given by employer and employee.

punishment for offences & acts which constitute

Suspension or dismissal for misconduct and the acts or omissions which constitute misconduct.

10. Procedure for employees against unfair treatment wrongful omission on the part of the employer or his agent servant.

Decision whether to do so is a matter of non-permanent character in the minds of [illegible] employees so as to force policies.

Demand for permanent or semi permanent increase in the number of persons employed or to be employed in any department or department.

5. Abolition of any existing group or [illegible] law or as provided for in the pending orders under this section 7 of this act.

Retain

6. Introduction of mechanization or other efficiency or other methods of work.

Bearing, alteration or discontinuance of shift working otherwise than in accordance with the standing orders.

8. Introduction of new rules of discipline or alteration of existing rules and their interpretation.

Imposition of any compulsory compulsion of privileges of workmen in kind.

In any local society limits of [illegible]

[illegible]

This is a piece of labour legislation which is long overdue in this state. It has to supplement the provisions for the settlement of industrial disputes. By reason of the growth of organisations of industrial workers and of the increasing influence exercised by public opinion on the course of disputes, the Government of India undertook legislation for the prevention and settlement of industrial disputes more than 10 years back. The Government of India have created the machinery pertaining to labour, namely, the Trade Unions Act (VII of 1926) which legalises the formation of Trade Unions and gives protection to their legitimate activities, and the Trade Disputes Act (VII of 1929) which provides for the investigation and settlement of trade disputes. A feature of the Trade Disputes Act is that the report of a court of inquiry or a board of conciliation to which a trade dispute is referred will be merely published by the Government. Neither party to the dispute is under any obligation to accept the findings of the court or the advice of the board. Here the dispute has not been brought to an end during the active stages of the strike that has been on hands, reliance is placed on the force of public opinion which will be created by the publication of the report of the tribunal to arrive at fair conclusions on the merits of the dispute, to influence the parties to come to a settlement. Apparently this procedure merely helped the investigation on the points in dispute and did not bring about a settlement and was found ineffective

to bring about the settlement of the dispute. Consequently in Bombay local legislation was taken up to make provision for the promotion of peaceful and amicable settlement of industrial disputes by conciliation and arbitration, and the Bombay Industrial Disputes Act, 1938, was passed. Its object is to prevent strikes to the extent possible by making them illegal and to settle industrial disputes which are the causes of strikes by means of conciliation and arbitration. The main lines of the Bombay Act are these. The definition of 'Industrial matter' is made fairly comprehensive including almost all questions which are likely to arise between an employer and an employee in an industry and they are classified into two schedules, the first consisting of general matters more or less of a permanent nature regarding which Standing Orders could be framed by each industrial undertaking and the second schedule consisting of matters of an individual or occasional nature. Every employer or an employee desiring a change in any industrial matter will have to give notice to the other party and also to the Commissioner of Labour. If no agreement is arrived at between the parties in regard to the proposed change, it will be referred to the Conciliator or the Board of Conciliation to bring about a settlement. It will be the endeavour of the Conciliator or the Board to bring about the settlement of an industrial dispute and their report will be published by the Government. A further step is to decide by arbitration an industrial dispute where an employer and a registered

union agree to submit the dispute to arbitration of any person or to the Court of Industrial Arbitration. The award of the Arbitrator and the Court will be binding upon the parties. Strikes and lock-outs declared without giving notice or before the completion of the conciliation or arbitration proceedings or in contravention of an agreement, settlement or award are declared illegal and penalties are provided for promoting an illegal strike or lock-out. Penalties are also provided for making an illegal change.

Here are a few deficiencies in the Bombay Act also. An industrial dispute in respect of which the parties do not arrive at an agreement or settlement during conciliation cannot be referred to arbitration unless both the employer and the registered union agree to so refer. It is only a recognized union that can be registered under the Act unless the union has a membership of twenty five per cent of the total number of employees employed in the industry. A 'Recognized Union' means a union which has been recognised in the prescribed manner by an employer. Consequently when an employer does not recognize such a union it cannot register itself and the procedure in regard to arbitration will fail. If employers do not give recognition to unions the Act cannot work satisfactorily. There is also no alternative provision enabling reference to arbitration if neither party or only one party agrees to arbitration.

The draft Bill has adopted the principles and salient provisions of the Indian Trade Unions Act, the Trade Disputes Act and the Bombay Industrial Disputes Act. Elaborate provisions in regard to procedure and so on, have been omitted and modifications have been made to suit local conditions. Many of the details will be provided for by the rules to be framed under the Act.

The following notes on clauses in the draft Bill explain the object of the clauses and the alterations where they differ from the Indian and Bombay Acts :-

Section 1.

The Act is intended to apply to industrial undertakings owned by Government and local authorities also, so that employees therein will be enabled to form associations and the provisions as regards conciliation, arbitration, strikes and lock-outs will apply to such undertakings also.

Clause 2.

Since under law a combination of workers doing certain acts which are prejudicial to an employer or are in restraint of trade is held to be a conspiracy and an actionable wrong, this clause gives legal recognition to such a combination or association. This right of association is given only to the employees in industrial

undertakings.

In almost all the industries at the present day there are a fairly large number of educated, intelligent employees sufficiently experienced to hold the offices of the association. All the help that may be necessary will be given by the Commissioner of Labour and his staff one of whose duties will be to organize, help and develop the work of associations.

The idea underlying the Act is to form an association for each industrial undertaking employing not less than 100 employees; but in cases of employees of small industrial establishments of a like nature in any local area or in different areas the Government may extend the Act to such an association

CLAUSE

The definition of 'Employer' omits the — inclusion of an association or group of employers because such an association or group is not contemplated by this Act.

CLAUSE 4.

The Commissioner of Labour will represent — the interests of labour and the general public.

CLAUSE 5.

It will be one of the main duties of the — Commissioner of Labour as soon as this Act comes into force to help in the organisation of an — association of employees in each industrial undertaking employing not less than one hundred workmen and to guide the officers of such associations.

CLAUSE 6.

The Commissioner of Labour who is to be — ex officio Registrar of Associations will register associations satisfying the prescribed conditions. Details as regards the constitution of an association are left to the rules. Every registered association will have the status of a Body — Corporate with the incidents of perpetual — succession, power to acquire and hold property

and to contract; and the capacity to sue and be sued.

This follows section 26 of the Bombay Industrial Disputes Act with slight changes. Industrial matters are classified into two schedules. The first schedule comprises of matters which are of a general nature and the second schedule, matters which are of an individual or occasional nature. An employer is required to frame Standing Orders in respect of matters in the First Schedule and submit such Standing Orders to the Commissioner within two months [illegible] the commencement of the Act. The Commissioner will hold a summary enquiry on points objected to by the Association and hereafter settle the Standing Orders and record them in the Register of Standing Orders. The Standing Orders settled by him shall be determinative of the relations between the employer and his employees.

CLAUSE 8.

This follows section 28 of the Bombay Act. Whenever an employer or association desires to effect a change in the Standing Orders in respect of matters in Schedule I or in the existing conditions in respect of matters in Schedule II, notice should be given to the other party and also to the Commissioner. The Commissioner will ascertain if

the parties agree to the change and if so. register it in the Register of Agreements. In case of disagreement he will initiate concilliation proceedings.

CLAUSE 9

The Commissioner is ex officio Chief Concilliator and the Assistant Commissioners of Labour will be Concilliators. If either party desires concilliation by a Board, the Government will appoint a Board of Concilliation consisting of three independent persons.

CLAUSE 10.

Procedure regarding concilliation proceedings will be prescribed by the Rules. If a settlement is reached in the concilliation proceedings it will be recorded by the Commissioner in the Register of Agreements. Where the parties do not come to a settlement the Conciliator or the Board will submit a report to the Government which will be published in the official Gazette, and enable the parties, if they so chose, to follow the advice given in the report. The provisions regarding a Court of Inquiry in the Indian Trade Disputes Act and the detailed procedure regarding conciliation proceedings in the Bombay Act are omitted as being unnecessary complications.

CLAUSE 11

If the employer and the association jointly apply for referring a point in dispute to arbitration, it will be referred to the Court of Arbitration. Where neither of them agree to arbitration

or only one or them agrees to arbitration, there is no provision in the Bombay Act as to what should be done. In sub-clause (1), Clause 11, of the Bill, power has been given to Government to refer to arbitration a point in dispute. Thus where the conciliation proceedings do not end in settlement and the Government finds the point fairly important, they may refer it to arbitration, notwithstanding both parties failing to consent to such reference. This provision will bring about a final decision by the award of the Court of Arbitration in respect of disputes, and such award will be binding on all parties.

The award of the Court of Arbitration will be recorded in the Register of Agreements and will be binding on the parties to the dispute and their successors, and cannot be called in question in any civil or criminal Court.

CLAUSE 12.

It is desirable that the conciliation proceedings are kept confidential. Proceedings before ~~xxxxx~~ a Court will be public except where the Court otherwise directs.

CLAUSE 13.

This follows Section 80 of the Bombay Act.

CLAUSE 14.

This follows Section 70 of the Bombay Act.

CLAUSE 15.

Sub-clause (1) follows Sections 40 and 56 — of the Bombay Act.

Sub-clause (2) follows Section 57, sub-section (3), of the Bombay Act.

Sub-clause (3) adopts the principle of — Section 57, sub-section (4) and Section 58 of the Bombay Act. Power is given to a Court of — Arbitration to direct payment of costs in respect of a proceeding referred to it by Government. There will be no direction as to costs in other proceedings because both parties will have agreed to the submission to arbitration. Provision is also made for the execution of such an order by a civil court having jurisdiction.

CLAUSE 16.

This follows Section 40, sub-sections 4, 5 and 6 of the Bombay Act.

CLAUSE 17.

This follows Section 68 of the Bombay Act.

CLAUSE 18.

This follows Section 73 of the Bombay Act and defines what are illegal changes: in effect changes in the Standing Orders or in industrial matters made by an employer otherwise than in accordance with this Act would be illegal.

CLAUSE 19.

This follows Section 69 of the Bombay Act and constitutes the making of an illegal change

an employee who provides a penalty for such offence

Clause 2 (a)

This follows Section 64 of the Bombay Act and prevents victimization of employees who exercise their legitimate rights in a registered association

This declares a strike or lock-out to be illegal which has any object other than or in addition to the furtherance of an industrial dispute. This follows Section 60 of the Indian Trade Disputes Act. According to this there can be a legal strike or lock-out only in furtherance of an industrial dispute. All other strikes or lock-outs which have other objects or purposes will be illegal. Even strikes or lock-outs in furtherance of an industrial dispute are made to be illegal if declared or continued in certain circumstances as mentioned in the following clauses. The idea is to prevent strikes or lock-outs to the extent possible and to solve all industrial disputes by conciliation and arbitration. There cannot be a strike or lock-out except in respect of an industrial dispute, and an industrial dispute is one which is connected with any industrial matter. A dispute in industrial matters arise in connection with changes proposed in trade. According to the procedure in the Act

[illegible]

[illegible]

[illegible] follows Section 64 of the Factory Act and prevents victimisation of employees who exercise their legitimate rights in a registered association.

[illegible] declares a strike or lock-out to be illegal which has any object other than or in addition to the furtherance of an industrial dispute. This follows [illegible] Section 60 of the Indian Trade Unions Act. According to this there can be a legal strike or lock-out only in furtherance of an industrial dispute. All other strikes or lock-outs which have other objects or purposes will be illegal. Even strikes or lock-outs in furtherance of an industrial dispute are held to be illegal if declared or continued in certain circumstances as mentioned in the following lines. The idea is to prevent strikes or lock-outs to the extent possible and to have the industrial disputes by conciliation and arbitration. There cannot be a strike or lock-out except in connect of an industrial dispute, and an industrial dispute is one which is connected with any industrial matter. Issues in industrial matters arise in connection with changes proposed in them. According to the procedure as the law,

they will have to be notified to the Registrar and then submitted for conciliation or arbitration if not settled by agreement of parties. [illegible] such settlement by conciliation or award by the Court of Arbitration is completed, a strike or lock-out on the ground of such dispute is held to be illegal by Clauses 22 and 23 which follow [illegible]

[illegible] any lock-out or strike in contravention of the terms of an agreement, settlement or award is also held to be illegal. Illegal strikes and illegal lock-outs are made offences and punishable. Consequently practically all disputes in respect of industrial matters will be settled by conciliation or arbitration and strikes or lock-outs will to a great extent be prevented.

[illegible] of the items in the schedules has to be emphasized. [illegible] cover all industrial matters. If in the course of the working of the Act it is found that any industrial matters have been omitted, power is given by Clause [illegible] to the Government to add to the schedules. If an industrial matter is not included in the schedules, a change in respect of such matter would not be subject to the provisions of this Act, in regard to notice of the proposed change, conciliation and arbitration. Consequently strike or lock-out in respect of any change in such matter which is not included in the schedules would not be illegal. Such change would not -

be an illegal change. It therefore appears t
in the interests of [illegible] employe
bring in all industrial matters that arise in
their [illegible] unchanged in one or other of
the schedules.

Clause XX

Such [illegible] sections [illegible]
ct and define what are illegal strikes and illegal
lock-outs.

Clause 26 & 28.

Such [illegible] sections 65 and 66 of the Bombay
Act and provide penalties for declaring illegal
lock-out/or illegal strikes.

Clause [illegible]

The follows section 67 of the Bombay Act and
provides penalties in respect of instigation and
incitement of illegal strikes and lock-outs.

Clause

[illegible] follows section 78 of the Bombay Act and
[illegible] the extent of liability of the executive
of [illegible].

Clause

[illegible] follows section 79 of the Bombay Act and
[illegible] the Government to make modifications in
the Rules.

Clause

[illegible] section 16 of the Indian Trade
Unions

CLAUSE 30.

This follows section 81 of the Bombay Act and is the usual provision against prosecution of persons acting bona fide.

CLAUSE 31.

This follows section 10 of the Indian Trade Unions Act and gives immunity from civil suit in respect of acts done in contravention or furtherance of an industrial dispute. Under the ordinary law an act which brings about a breach of a trade or employment or which is interference with the trade, business or employment of some other person, is wrongful. But act if done by a member of an association or by an association in furtherance of an industrial dispute is protected from civil action by this clause.

CLAUSE 32

As in section 10 of the Indian Trade Unions Act and permits agreement or agreement between members of an association though it may be in restraint of trade.

CLAUSE 33.

The [illegible] offences under the Act to be tried by a Magistrate of the First Class.

CLAUSE 34.

This is the usual clause enabling the Government to make rules.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

No. RL 470-Leg; 12-41-3 General and Revenue Secretariat,

Dated, Bangalore, 28th August, 1941.

~~Now, therefore~~
~~under Sec 4 of the Mysore Labour (Emergency) Act~~
~~in B.G. Appadorai Mudaliar B.A. B.Sc is~~
~~appointed Commissioner of Labour in Mysore~~
~~In exercise of the powers conferred by~~
~~and Mr T. Ramaswamy B.A., Assistant~~
~~Commissioner of Labour~~
~~(2) under Sec 6 of the Mysore Labour (Emergency)~~
~~Act 1941 (XX of 1941), the Excise~~
~~Commissioner in Mysore is appointed~~
~~Kleinhan of Associations in the State.~~
~~By order~~

ection 4 of the
41), the Government
ppoint Mr. B.G. Appa-
as the Commissioner
A., as Assistant

ection 6 of the said
ommissioner in Mysore

~~Sec 4 Govt~~
~~Law Dept~~

By order,

28/8/41

Secretary to Governmer
Law Department.

The Compiler, Mysore Gazette, for publication in part IV o
Gazette.

STATEMENT OF PRINCIPLES OF THE MYSORE LABOUR BILL.

There ~~is at present~~ was no necessity in Mysore no machinery for the settlement of industrial disputes. The increasing number of such disputes and the loss occasioned thereby to the employers, the employed and the public at large require ~~however~~, that methods ~~of~~ should be devised for preventing the occurence of lightning strikes and lock-outs and securing their speedy termination when they occur ~~should be examined~~.

In British India, ~~this question has been engaging the minds of the Government for some time, and~~ as early as 1926 the Trade Union Act was passed into law and in 1929 the Trade Disputes Act were passed ~~into law~~. The former Act legalises the formation of trade unions and gives protection to their legitimate activities. ~~The stimulus given by the Act has resulted not so much from any rights or liabilities that it created as from the enhanced status given by the recognition of trade unions in the Statute Book~~. The Trade Disputes Act, 1929, provides for the constitution of Courts of Inquiry and Boards of Conciliation to examine trade disputes and endeavour to bring about a settlement and submit a report. Such report by the Court or Board is not binding on the parties. Reliance is placed on the force of public opinion which is expected to be framed on the basis of the report.

While helping the investigation of points in dispute, such a procedure did not help to bring about a settlement. ~~and~~ In 1938 legislation was taken up in Bombay ~~to frame a comprehensive piece of legislation~~ designed to bring about settlements by conciliation and arbitration. By the Bombay Act, an award by an ~~an~~ arbitrator is ~~made~~ made binding on the parties to the arbitration, but referen to arbitration can be only at the request or approval of both the parties to a dispute. That Act has elaborate provisions for recognition of Unions and similar matters.

In Mysore, strikes and lock-outs have been unfortunately ~~on the increase and Government have been considering ways not only of bringing about settlement of disputes but also of taking steps to prevent such disputes~~ frequent of late. The report of Rajasevaprasaktha A.V. Ramanathan who was appointed to go into the question of the recent strike at the Binny Mills in Bangalore and the report of Rajamantrapravina Diwan Bahadur K. Matthan who was appointed to enquire into the condition of labour in the Gold Fields at Kolar, both stressed the necessity for legislation ~~on in this behalf~~ to prevent lightning strikes and ensuring prompt settlement of trade disputes. Committee was appointed by Govt. on 10th June 1941, to consider the question. The Committee consisted of representatives ~~of the~~ employers and workmen and the Govt. officers handling labour problems, with the Minister for Labour as Chairman. The Committee ~~where~~ unanimously recommended the bill now before the House.

In considering the question ~~of enacting legislation on this subject~~, ~~Government have kept~~ two basic principles have been in view. ~~One~~ The first is that any attempt to deal with unrest which is the cause of all disputes, must begin rather with the creation of an atmosphere unfavourable to disputes than with machinery for their settlement. ~~An important factor at work in creating industrial unrest~~ The first factor contributing to unrest is the lack of ~~contact~~ means for mutual understanding between employers and employed. The growth of large scale industry renders impossible the close personal relations between the employer and the employed which ~~subsists~~ obtains when employees are few. ~~It is considered that~~ The only practical way in which such contact could be established is ~~by the recognition~~ the formation of an association of employees in each large industrial undertaking, ~~with a definite statutory status and statutory rights and duties.~~ the statutory rights of representing the ~~interests~~ employees.

The second principle ~~that has weighed with the Government~~ is that when once a ~~strike or lock-out has come into being~~ dispute ~~occurs~~ occurs ~~a~~ difference exists between employer & employee, ~~a~~ settlement should ~~depend more on the~~ be secured through goodwill and ~~co-operation of~~ mutual understanding between the parties than on any external or statutory pressure brought upon them. Objections to any scheme involving the compulsory

compulsory reference of all disputes to arbitration are ~~formidable~~ quite apart from the practical difficulties that confront such a proposal. It has been considered therefore desirable that both conciliation as well as arbitration should be based on the consent of parties. But once such consent is given, an award ~~has to be made~~ is made binding on the parties ~~since a properly balanced and quasi judicial body will be responsible for the award.~~

The Mysore Labour Bill is framed on these principles. Immediately ~~The registration of~~ associations of employees in an industrial undertaking is ~~recognised~~ registered ~~and they are given certain~~ it is accorded statutory rights ~~and they incur certain obligations which are considered necessary for their proper government and control.~~ No separate recognition is necessary as under the Bombay Act. ~~A registered association is enabled to insist that no changes in any industrial matter are made by the employer without their consent or approval. Such an association may, within the machinery set up by the measure, agitate for a change in any industrial matter.~~

Certain important safeguards have also been provided in the Bill: one of them is that an employer shall not dismiss or reduce any employee or punish him in any other manner for being connected with an association or its lawful activities. Another is that information furnished by a party to an industrial dispute should, if he so desires it, be treated as confidential.

~~With these provisions embodied in the measure, it has been considered expedient to provide~~ The bill declares that strikes and lock-outs ~~declared~~ illegal if commenced without the requisite notice ~~and~~ or in contravention of any settlement or award or during conciliation or arbitration proceedings ~~shall be illegal~~ or ~~within a certain~~ before the expiry of 14 days after the publication of the Report of a Conciliator or Board of

ex-recognises and declares the right of employees in an industrial undertaking to combine amongst themselves for the mutual protection of their common interests. It applies to all undertakings whether owned by a public or private body or by a person for profit or not and whether the employees are required to be ~~set down in~~ reduced to writing in the shape of Standing orders. The matters to be provided by Standing orders are ~~enumerated~~ enumerated in ~~a~~ a Schedule. Another Schedule enumerates other matters which are casual in nature & cannot be incorporated in Standing orders.

The procedure for ~~initiating~~ ~~making~~ changes in these ~~Standing~~ Orders or casual matters by either party is prescribed and machinery created for settling disputes may arise. Illegal

~~the punishment for an illegal strike in~~

ant provides suitable punishments. ~~Outside~~ This legislation

~~outside~~ of illegal strikes or lockouts ~~are also~~ is also made ~~punishable~~.

A committee was constituted by the Government in June ~~earlier~~ this year for considering measures relating to labour legislation in Mysore and the members have unanimously approved of this bill.

The members on the committee representing Labour requested ~~suggested~~ that ~~the Bill~~, in view of general agreement in the committee, the Bill might ~~may~~ be passed as an emergency measure, excluding the provisions ~~which~~ relating to Standing Orders, ~~Accordingly~~ the Mysore Labour (Emergency) Act, 1941, was promulgated as an emergency measure ~~in August and~~. It is now proposed to place it permanently on the Statute Book

which require time for being drafted.

The Govt ~~have~~ published the report of the Comm ~~against publishing~~ ~~and~~ & its Bill & invited public opinion on the report. ~~So the~~

~~So the~~ Earlier 20th August ~~1941~~ 1941, a fresh strike occurred in the B. W & C. Mills Ltd, Bangalore. Hon 16/9/41

In order to ~~prevent~~ prevent the occurrence of lightning strikes, ~~the Govt~~

~~It is expected that within the framework of this measure, contact between the employer and the employee will increase and bring about the goodwill necessary to prevent disputes.~~

STATEMENT OF PRINCIPLES OF THE MYSORE LABOUR BILL

There was till recently in Mysore no machinery for the settlement of industrial disputes. The increasing number of such disputes and the loss occasioned thereby to the employers, the employed and the public at large required that methods should be devised for preventing the occurrence of lightning strikes and lock-outs and securing their speedy termination when they occur.

In British India, as early as 1926 the Trade Union Act was passed into law and in 1929 the Trade Disputes Act was passed. The former Act legalises the formation of trade unions and gives protection to their legitimate activities. The Trade Disputes Act, 1929, provides for the constitution of Courts of Inquiry and Boards of Conciliation to examine trade disputes and endeavour to bring about a settlement and submit a report. Such report by the Court or Board is not binding on the parties. Reliance is placed on the force of public opinion which is expected to be framed on the basis of the report.

While helping the investigation of points in dispute such a procedure did not help to bring about a settlement. In 1938 legislation was taken up in Bombay designed to bring about settlements by conciliation and arbitration. By the Bombay Act, an award by an arbitrator is made binding on the parties to the arbitration, but reference to arbitration can be only at the request or approval of both the parties to a dispute. That Act has elaborate provisions for recognition of Unions and similar matters.

In Mysore, strikes and lock-outs have been unfortunately frequent of late. The report of Rajasevaprasaktha A.V. Ramanathan who was appointed to go into the question of the recent strike at the Binny Mills in Bangalore and the report of Raja rapravina Diwan Bahadur K. Matthan who was appointed to enquire into the condition of labour in the Gold Fields at Kolar, both stressed the

necessity for legislation to prevent lightning strikes and ensuring prompt settlement of trade disputes. A committee was appointed by Government on 10th June 1941, to consider the question. The Committee consisted of representatives of employers and workmen and the Government Officers handling labour problems, with the Minister for Law as the Chairman. The Committee unanimously recommended the bill now before the House.

In considering this question, two basic principles have been in view. The first is that any attempt to deal with unrest which is the cause of all disputes, must begin rather with the creation of an atmosphere unfavourable to disputes than with machinery for their settlement. The first factor contributing to unrest is the lack of means for mutual understanding between employers and employed. The growth of large scale industry renders impossible the close personal relations between the employer and the employed which obtains when employees are few. The only practical way in which such contact could be established is the formation of an association of employees in each large industrial undertaking with the statutory right of representing the employees.

The second principle is that when once a dispute occurs or difference exists between employer and employee, settlement should be secured through goodwill and mutual understanding between the parties than on any external or statutory pressure brought upon them. Objections to any scheme involving the compulsory reference of all disputes to arbitration are formidable quite apart from the practical difficulties that confront such a proposal. It has been considered therefore desirable that both conciliation as well as arbitration should be based on the consent of parties. But once such consent is given, an award is made binding on the parties.

The Mysore Labour Bill is framed on these principles. It recognises and declares the right of employees in an

Industrial undertaking to combine among themselves for the promotion of their common interests. It applies to all undertakings whether owned by a private person, Government or ~~general~~ local authority. Immediately the association of employees in an industrial undertaking is registered, it acquires statutory rights. No separate recognition is necessary as under the Bombay Act. The conditions of service are required to be reduced to writing in the shape of standing orders. The matters to be provided by standing orders are enumerated in a schedule. Another schedule enumerates other matters which are casual in nature and cannot be incorporated in Standing orders.

The procedure for initiating changes in these standing orders or casual matters by either party is prescribed and machinery created for settling disputes that may arise. Illegal changes are made punishable by the Bill.

Certain important safeguards have also been provided in the Bill. One of them is that an employer shall not dismiss or reduce any employee or punish him in any other manner for being connected with an association or its lawful activities. Another is that information furnished by a party to an industrial dispute should, if he so desires it, be treated as confidential.

The Bill declares that strikes and lock-outs made illegal if commenced without the requisite notice or in contravention of any settlement or award or during conciliation or arbitration proceedings or before the expiry of 14 days after the publication of the Report of a Conciliator or Board of Conciliation, and provides suitable punishments. Instigation by outsiders of illegal strikes or lockouts is also made punishable.

The members representing Labour on the Committee requested that in view of general agreement in the Committee the Bill might be passed as an emergency measure excluding

the provisions relating to Standing orders which require time for being drafted. The Government published the report of the Committee and its bill and were watching the public opinion on the report.

On the 20th August 1941, a fresh strike occurred in the Bangalore Woollen and Cotton Mills, Ltd., Bangalore. In order to prevent the occurrence of lightning strikes, the Mysore Labour (Emergency) Act, 1941, was promulgated as an emergency measure. It is now proposed to place it permanently on the Statute Book.

The Mysore Representative Assembly.

DASARA SESSION—OCTOBER, 1941.

AMENDMENTS TO BILLS.

I. The Mysore Labour Bill.

Mr. M. N. Jois.

withdrawn

(*a*) *Clause 13.*—At the end of Sub-clause (4) *add* "The court of arbitration or the sole Arbitrator may refer any matter in which a decision on any question of law is required to the Industrial Court for its decision. Any award made by the Court of Arbitration or the sole Arbitrator shall be in accordance with such decision."

After Sub-clause (4) *insert* "4-A. Notwithstanding anything hereinbefore contained, the Government may, at any time, refer any industrial dispute to the arbitration of the Industrial Court, if it is satisfied that—

(1) a serious outbreak of disorder or a breach of the public peace is likely to occur, or

(2) serious or prolonged hardship to a large section of the community is likely to be caused by reason of the continuance of the industrial dispute; or

(3) the prospect and scope for employment is curtailed as a result of the continuance of the industrial dispute."

Delete sub-clause (6) and in place *add* "The award shall come into operation on the date on which it is registered under sub-section (5) of Section 13."

Carried 128 for 105 against 35 against

(*b*) Between Clauses 13 and 14, *add* as clause "13-A."—"The Government may constitute an Industrial Court to decide appeals from orders passed by the Registrar under this Act, to decide appeals from the decision of the Commissioner of Labour under this Act and act as a Court of Appeal.

(2)

"(1) The Industrial Court shall have the following personnel:—

(*a*) Every member of this Court shall be a person not connected with any industry.

(*b*) Has been a judge of a High Court and eligible for being appointed a judge of such court.

(*c*) It may have three or more members one of whom shall be its President.

(*d*) This Court may make rules not inconsistent with this Act and to its working."

2. Mr. K. Chengalaraya Reddy.

(1)

Carried 124 for 117 against

(*a*) Clause 2 be suitably amended, or necessary provision be made, so as to recognise (i) Federations of Associations either generally or pertaining to the same industry and (ii) All Mysore Confederation of Associations and Federations.

withdrawn

(*b*) Clause 13 be amended so as to provide for compulsory Arbitration at the instance of either party or Government.

withdrawn

(*c*) Clauses 27 and 28 be amended so as to provide for an appeal to a suitable forum, preferably to the Court of Arbitration, against the declaration by the Registrar that a strike or lock out is illegal.

II. The Mysore Debt Conciliation (Amendment) Bill.

1. Mr. K. Chengalaraya Reddy.

That Clause 7 of the Bill be amended for introducing the principle of compulsion in the Conciliation of debts by making the decision of the Board binding on all the creditors whether they agree to the same or not.

MYSORE,
1st October 1941.

B. K. RAMAKRISHNIAH,
Secretary, Representative Assembly.

WD 479—GBPM—600—1-10-41.

[P.T.O.]

ಮೈಸೂರು ಪ್ರಜಾಪ್ರತಿನಿಧಿ ಸಭೆ

ದಸರಾ ಅಧಿವೇಶನ—ಅಕ್ಟೋಬರ್ 1941

ಮುಸೂದಾ ಕಾನೂನುಗಳಿಗೆ ತಿದ್ದುಪಡಿಗಳು

I. ಮೈಸೂರು ಸಂಸ್ಥಾನದಲ್ಲಿ ಕೂಲಿಗಾರರ ವಿಚಾರಕ್ಕೆ ಸಂಬಂಧಪಟ್ಟ ಮುಸೂದಾ ಕಾನೂನು.

1. ಶ್ರೀಮಾನ್ ಎಂ. ಎಸ್. ಜೋಯಿಸರವರು.

(*a*) 13ನೆಯ ಕ್ಲಾಜು—(4)ನೆಯ ಒಳಕ್ಲಾಜಿನ ಕೊನೆಯಲ್ಲಿ ಈ ಕೆಳಗೆ ಕೊಟ್ಟಿರುವುದನು ಸೇರಿಸಬೇಕು. ಅದು ಯಾವುದೆಂದರೆ.—

ಪಂಚಾಯಿತಿ ಕೋರ್ಟಿನವರಾಗಲಿ ಅಥವಾ ಕೋಲ್ ಆರ್ಬಿಟ್ರೇಟರ್' ಆಗಲಿ, ಕಾನೂನಿಗೆ ಪಟ್ಟ ಯಾವುದಾದರೂ ವಿಚಾರದಲ್ಲಿ ತೀರ್ಮಾನವು ಬೇಕಾಗಿರತಕ್ಕ ಯಾವ ವಿಷಯವನ್ನಾಗಲಿ, ಕೈಗಾರಿಕೆ ಕೋರ್ಟಿನವರಿಗೆ ಅವರ ತೀರ್ಮಾನಕ್ಕಾಗಿ ಒಪ್ಪಿಸಬಹುದು. ಪಂಚಾಯಿತಿ ಕೋರ್ಟಿನವರಾಗಲಿ ಅಥವಾ ಕೋಲ್ ಆರ್ಬಿಟ್ರೇಟರ್' ಆಗಲಿ ಕೊಡತಕ್ಕ "ಅವಾರ್ಡು' ತೀರ್ಪು, ಕೈಗಾರಿಕೆ ಕೋರ್ಟಿನವರ ತೀರ್ಮಾನ ಕ್ಕನುಸಾರವಾಗಿರತಕ್ಕುದು."

(4)ನೆಯ ಒಳಕ್ಲಾಜಾದ ತರುವಾಯ ಈ ಕೆಳಗೆ ಕಂಡ ಒಳಕ್ಲಾಜನ್ನು ಸೇರಿಸಬೇಕು; ಅದು ಯಾವುದೆಂದರೆ.—

"4A. ಇದಕ್ಕೆ ಹಿಂದಿನ ನಿಯಮಗಳಲ್ಲಿ ಏನೇ ಅಡಕವಾಗಿರಲಿ, ಸರ್ಕಾರದವರು,—

(1) ಕ್ರಮತಪ್ಪಿದ ವರ್ತನೆಯು ಹೆಚ್ಚಾಗಿ ತಲೆದೋರುವ ಅಥವಾ ಸಾರ್ವಜನಿಕ ಶಾಂತಿಗೆ ಭಂಗವುಂಟಾಗುವ ಸಂಭವವಿದೆಯೆಂದು, ಅಥವಾ

(2) ಕೈಗಾರಿಕೆಯ ಸಂಬಂಧದ ವಿವಾದವು ಇತ್ಯರ್ಥವಾಗದ ಹಾಗಯೇ ಮುಂದುವರಿಯುವುದರಿಂದ ಅನೇಕ ಜನಗಳಿಗೆ ಬಹಳ ಮಟ್ಟಿನ ತೊಂದರೆಯು ದೀರ್ಘಕಾಲದವರೆಗೆ ಉಂಟಾಗುವ ಸಂಭವವಿದೆಯೆಂದು, ಅಥವಾ

(3) ಕೈಗಾರಿಕೆಯ ಸಂಬಂಧದ ವಿವಾದವು ಮುಂದುವರಿಯುವುದರ ಫಲಿತಾಂಶವಾಗಿ ಕೆಲಸಕ್ಕೆ ನೇಮಕ ಮಾಡಿಕೊಳ್ಳುವ ಸಂಭವವೂ ಮತ್ತು ಅವಕಾಶವೂ ಕಡಮೆ ಮಾಡಲ್ಪಟ್ಟಂತೆ ಆಗಿದೆಯೆಂದು,

ಅವರಿಗೆ ದೃಢವಾಗಿ ಕಂಡುಬಂದರೆ, ಕೈಗಾರಿಕೆಯ ಸಂಬಂಧದ ಯಾವ ವಿವಾದವನ್ನಾಗಲಿ, ಯಾವ ಕಾಲದಲ್ಲಿ ಬೇಕಾದರೂ, ಕೈಗಾರಿಕೆ ಕೋರ್ಟಿನವರ ತೀರ್ಮಾನಕ್ಕಾಗಿ ಒಪ್ಪಿಸಬಹುದು."

(6) ನೆಯ ಒಳ ಕ್ಲಾಜನು ವಜಾಮಾಡಿ, ಅದಕ್ಕೆ ಬದಲಾಗಿ ಈ ಕೆಳಗೆ ಕಂಡುದನ್ನು ಸೇರಿಸಬೇಕು; ಅದು ಯಾವುದೆಂದರೆ :—

"ಆ ತೀರ್ಮಾನವು ('ಅವಾರ್ಡು') 13ನೆಯ ಪ್ರಕರಣದ (5) ನೆಯ ಒಳ ಪ್ರಕರಣದ ಮೇರೆಗೆ ಅದು ರಿಜಿಸ್ಟರಾದ ತಾರೀಖಿನ ದಿನ ಜಾರಿಗೆ ಬರತಕ್ಕುದು."

) 13ನೆಯ ಕ್ಲಾಜಿಗೂ ಮತ್ತು 14ನೆಯ ಕ್ಲಾಜಿಗೂ ಮಧ್ಯೆ ಈ ಕೆಳಗೆ ಕಂಡ ಕ್ಲಾಜನ್ನು ಸೇರಿಸಬೇಕು; ಅದು ಯಾವುದೆಂದರೆ :—

"ಈ ಆಕ್ಟಿನ ಮೇರೆಗೆ ರಿಜಿಸ್ಟ್ರಾರರವರಿಂದ ಸಾದರ್ಮಾಡಲ್ಪಡತಕ್ಕ ಹುಕುಮುಗಳ ಮೇಲೆ ಬರತಕ್ಕ ಅಪೀಲುಗಳನ್ನು ವಿಚಾರಣೆ ಮಾಡಿ ತೀರ್ಮಾನ ಕೊಡುವುದಕ್ಕಾಗಿಯೂ ಮತ್ತು ಈ ಆಕ್ಟಿನ ಮೇರೆಗೆ ಲೇಬರ್ ಕಮೀಷನರವರಿಂದ ಮಾಡಲ್ಪಡತಕ್ಕ ತೀರ್ಮಾನದ ಮೇಲೆ ಬರತಕ್ಕ ಅಪೀಲುಗಳನ್ನು ವಿಚಾರಣೆಮಾಡಿ ತೀರ್ಮಾನ ಕೊಡುವುದಕ್ಕಾಗಿಯೂ ಸರ್ಕಾರದವರು ಒಂದು ಕೈಗಾರಿಕೆ ಕೋರ್ಟನ್ನು ಏರ್ಪಡಿಸಬಹುದು.

(1) ಕೈಗಾರಿಕೆ ಕೋರ್ಟಿನವರು ಯಾರಾಗಿರಬೇಕೆಂದರೆ :—

(*a*) ಈ ಕೋರ್ಟಿನ ಪ್ರತಿಯೊಬ್ಬರೂ, ಯಾವ ಕೈಗಾರಿಕೆಗಾಗಲಿ ಸಂಬಂಧಪಟ್ಟಿಲ್ಲದವರಾಗಿರಬೇಕು

(*b*) ಅವರು ಒಂದು ಹೈಕೋರ್ಟಿನ ಜಡ್ಜಿಯವರಾಗಿದ್ದಿರಬೇಕು, ಮತ್ತು ಅಂಥ ಕೋರ್ಟಿನ ಜಡ್ಜಿಯವರಾಗಿ ನೇಮಕಮಾಡಲ್ಪಡಲು ಅರ್ಹರಾದವರಾಗಿರಬೇಕು;

(*c*) ಕೈಗಾರಿಕೆ ಕೋರ್ಟಿನಲ್ಲಿ ಮೂರು ಅಥವಾ ಅದಕ್ಕಿಂತ ಹೆಚ್ಚಿನ ಮಂದಿ ಇರಬಹುದು ಆ ಹೊಕ್ಕಿ ಒಬ್ಬರು ಆ ಕೋರ್ಟಿನ ಅಧ್ಯಕ್ಷರಾಗಿರತಕ್ಕುದು.

(*d*) ಈ ಕೋರ್ಟಿನವರು, ಈ ಆಕ್ಟಿಗೂ ಮತ್ತು ಅದರ ಮೇರೆಗೆ ಕೆಲಸ ನಡೆಸುವುದಕ್ಕೂ ಅನನುಗುಣವಾಗಿಲ್ಲದಂಥ ನಿಬಂಧನೆಗಳನ್ನು ಮಾಡಬಹುದು

Lab. in Legis.

Mr. Jos

(a) withdrawn after discussion in view of Reddy's (c)

(b) Put to vote subject to the observn that the suggn implied could not be taken up in toto at this stage as only the principle of the amendment was under discn now – Carried by 123 35 against 105 neutral

Mr. K. Reddy

(a) passed 124 for + 11 against

(b) + (c) withdrawn after discussion

2. ಶ್ರೀಮಾನ್ ಕೆ. ಚೆಂಗಲರಾಯ ರೆಡ್ಡಿಯವರು.

(*a*) (i) ಸರ್ವೇಸಾಧಾರಣವಾಗಿ ಎಲ್ಲ ಕೈಗಾರಿಕೆಗಳಿಗೂ ಸಂಬಂಧಪಟ್ಟಂತೆ ಆಗಲಿ, ಅಥವಾ ಒಂದೇ ವಿಧವಾದ ಕೈಗಾರಿಕೆಗೆ ಸಂಬಂಧಪಟ್ಟಂತೆ ಆಗಲಿ, ಕೆಲಸಗಾರರ ಸಂಘಗಳ "ಫೆಡರೇಷನ್" (ಸಂಯುಕ್ತ) ಸಂಸ್ಥೆಗಳನ್ನೂ ಮತ್ತು (ii) ಅಖಿಲ ಮೈಸೂರು ಸಂಸ್ಥಾನದ ಸಂಘಗಳ ಮತ್ತು "ಫೆಡರೇಷನ್" ಸಂಸ್ಥೆಗಳ ಒಟ್ಟುಗೂಡಿಸಿದ "ಕಾನ್‌ಫೆಡರೇಷನ್" ಸಂಸ್ಥೆಯನ್ನೂ, ಅಂಗೀಕರಿಸುವುದಕ್ಕೆ ಅವಕಾಶವುಂಟಾಗಲು ತಕ್ಕಂತೆ ಮಸೂದಾ ಕಾನೂನಿನ 2ನೆಯ ಕ್ಲಾಜನ್ನು ತಿದ್ದುಪಾಟು ಮಾಡಬೇಕು ಅಥವಾ ಆವಶ್ಯಕವಾದ ಒಂದು ನಿಯಮವನ್ನು ಸೇರಿಸಬೇಕು.

(*b*) ವಿವಾದದ ಉಭಯ ಪಕ್ಷಗಳ ಪೈಕಿ ಯಾರಾಗಲಿ ಅಥವಾ ಸರ್ಕಾರದವರಾಗಲಿ ಕೋರಿದಲ್ಲಿ ನಿರ್ಬಂಧಕವಾಗಿ ಪಂಚಾಯಿತಿಯ ಮೂಲಕ ತೀರ್ಮಾನ ನಡೆಯುವುದಕ್ಕೆ ಅವಕಾಶವಿರುವಂತೆ 13ನೆಯ ಕ್ಲಾಜನ್ನು ತಿದ್ದುಪಾಟು ಮಾಡಬೇಕು.

(*c*) ಒಂದು ಮುಷ್ಕರವು ಅಥವಾ ಅಡ್ಡಿಕಟ್ಟು ("ಲಾಕ್ ಔಟ್") ಅಕ್ರಮವಾದುದೆಂದು ರಿಜಿಸ್ಟ್ರಾರರವರು ಅಪ್ಪಣೆ ಮಾಡಿದುದರ ಮೇಲೆ ಸರಿಯಾದ ಒಂದು ನ್ಯಾಯಸ್ಥಾನಕ್ಕೆ, ಬಹುಮಟ್ಟಿಗೆ ಪಂಚಾಯಿತಿ ಕೋರ್ಟಿಗೇ ("ಆರ್ಬಿಟ್ರೇಷನ್ ಕೋರ್ಟಿಗೇ") ಅಪೀಲು ಮಾಡಲು ಅವಕಾಶ ಕಲ್ಪಿಸುವಂತೆ 27 ಮತ್ತು 28ನೆಯ ಕ್ಲಾಜುಗಳನ್ನು ತಿದ್ದುಪಾಟು ಮಾಡಬೇಕು.

II. ಮೈಸೂರು ಸಂಸ್ಥಾನದಲ್ಲಿ ಪರಸ್ಪರ ರಾಜಿ ಒಪ್ಪಂದದ ವ್ಯವಸ್ಥೆಯ ಮೂಲಕವಾದ ಸಾಲತೀರ್ವೆಯ ಏರ್ಪಾಡಿಗೆ ಸಂಬಂಧಪಟ್ಟ (ತಿದ್ದುಪಡಿ) ಮಸೂದಾ ಕಾನೂನು.

1. ಶ್ರೀಮಾನ್ ಕೆ. ಚೆಂಗಲರಾಯರೆಡ್ಡಿಯವರು.

ಪರಸ್ಪರ ರಾಜಿ ಒಪ್ಪಂದದ ವ್ಯವಸ್ಥೆಯ ಮೂಲಕವಾದ ಸಾಲತೀರ್ವೆಯ ಸಂಬಂಧದಲ್ಲಿ ಬೋರ್ಡಿನವರು ಕೊಡುವ ತೀರ್ಮಾನಕ್ಕೆ ಲೇಣೀದಾರರುಗಳು ಒಪ್ಪಲಿ ಅಥವಾ ಒಪ್ಪದಿರಲಿ, ಅದಕ್ಕೆ ಎಲ್ಲಾ ಲೇಣೀದಾರರುಗಳೂ ಬದ್ಧರಾಗಿರುವಂತೆ ವಿಧಾಯಕ ಮಾಡುವ ನಿಯಮವು ಏರ್ಪಡುವ ರೀತಿಯಲ್ಲಿ ಮಸೂದಾ ಕಾನೂನಿನ 7ನೆಯ ಕ್ಲಾಜನ್ನು ತಿದ್ದುಪಡಿ ಮಾಡಬೇಕು.

ಮೈಸೂರು,
1ನೆಯ ಅಕ್ಟೋಬರ್ 1941.

ಬಿ. ಕೆ. ರಾಮಕೃಷ್ಣಯ್ಯ,
ಮೈಸೂರು ಪ್ರಜಾಪ್ರತಿನಿಧಿ ಸಭೆಯ ಸೆಕ್ರೆಟರಿ.

File re: the Mysore Labour (emergency) Act, 1941

Serial No.

Dev Sec

[illegible] all criticisms & opinions so far rec' (with press cuttings sent by me & Law Sec' from time to time) and also the discussion in committee and prepare a brief note on the points raised by Sri K. T. Bhashyam

21-8-41

926

Please put up all the papers

22/8/41

22/8/41

Subject 2.2 C

Please put up the Press cuttings

22/8

Dev. Secy)

28/8/41

All the Press cuttings are placed below.

22/8

SECY. DEV. DEPT. 28. AUG. 1941 GOVT. OF MYSORE

NOTE—Contn. Shee

Mr. M. SESHADRI, M.A.,
Deputy Commissioner.

Bangalore,
Dated: 21st August, 1941.

D. O. No. CC. 2/41-42.
Enc: Three.

Subd
(Law Minister)
21/8

OFFICE OF THE
MINISTER FOR LAW
AUG 21 1941
No. 1768

Dear Mr. Kesavaiengar,

I am sending herewith a copy of the report No. CC.3/41-42 dated to-day, received from the City Superintendent of Police, about the labour situation in the Binny Mills, together with a copy of the article purporting to have been sent by Mr. K. T. Bhashyam, to the Press for publication, criticising the Labour Legislation under contemplation.

This requires studying and comment. A pass note may be necessary to refute these unbalanced

2. I am also sending a copy of the report No. CC.25/41-42 dated to-day, received from the City Superintendent of Police, about the party given to Mr. P. R. K. Sarma, M.L.A., Madras.

Yours sincerely,

M Seshadri

RAJASEVAPRASAKTA
Kesavaiengar, Esq., B.A.,
Chief Secretary to the Govt. of Mysore,
Bangalore.

WD 06996—GPB—20,000—20-6-40

Form No. 24]

MYSORE POLICE DEPARTMENT

In reply, please quote number, date and short title.*

Received.....*Registered*.....

From (Name) M. Wynne, Esquire.,

(Designation) Superintendent of Police,

Post Box....., (STATION) .....Bangalore City.....

Telegraphic Address.....

To

The Deputy Commissioner

Bangalore District, Bangalore.

CC.*No*. 3/4442 *dated*. August 21, *1942*.

SIR,

ENCLOSURES.....

.....

.....

SPARE COPIES.....

BINNY MILLS.

In continuation of this office letter of yesterday regarding the situation at the Mills, I have the honour to state that at about 2-30 p.m. the workers in the Cotton Weaving Section are reported to have stopped work and resumed subsequently after 15 minutes. It appears the Manager intervened and asked them to resume work. Subsequently at about 3-30 p.m. the Labour Commissioner with his assistant and the Director and General Manager visited the Cotton Weaving Section and advised the labourers not to stop work as the question of receiving the Bonus or refusing the same is a seperate question and nothing to do with their work Further he told them that if any persons receive bonus that evening they should not stop them from receiving the same The Labour Commissioner further asked Chengalaradhya to bring the persons who are on probation the next day to his office.

At about 4-30 p;m. when the bonus amount was sent to the several departments of the Mills only about 5 percent of the total strength are reported to have received the same and the rest cleared out of the Mil

Yesterday night Chengalaradhya, Puttashankarappa, Ramiah and Venkatesh were in K.T.Bashyam's house and discussed with him the day's happenings and about their future activities. Mr.K.T.Bashyam told them that the Mill Management are not - keeping up their promises and he is sure that if they protest, the Government would also help them as the authorities are convinced that the Management are at fault. To the suggestion that daily meetings to be arranged to infuse enthusiasm among the workers, Mr.Bashyam was of opinion that they can wait for some time and see whether they can get any satisfactory results to their grievances.

This morning, it seems the Management intimated that those who have not received their bonus may receive the same from the Manager's office. On coming to ~~notice~~ know this. the workers of T & D Section stopped work at about 9-30 a.m. They protested that in case of their wages, the management pay those who do not receive on particular day after a period of 8 days and that applying the same principle, the management must disburse the bonus not the next day but only after a week. They resumed work after an interwal of about half an hour. The Asst.Labour Commissioner also visited the Mills at this time. A copy of the article by Mr.K.T.Bashyam and sent for publication is herein enclosed.

Further developments will duly be reported.

I have the honour to be,
Sir,
Your most obedient servant,

Superintendent of Police,
Bangalore City.

ND 06996—GPB—20,000—20-6-40

Form No. 24]

MYSORE POLICE DEPARTMENT.

In reply, please quote number, date and short title.*

Received.....*Registered*.....

From (Name) M. WYNNE, ESQUIRE.,

Designation) Superintendent of Police,

Post Box....., (STATION) .....Bangalore City.

Telegraphic Address.....

To

The Deputy Commissioner,

Bangalore District, Bangalore.

No.....*dated* August 21, ...*1941*

SIR,

SPARE COPIES..

I have the honour to state that a Tea Party was given to Mr.P.R.K.Sarma, M.L.A., (Labour) President, Madras Provincial Trade Union Congress and - Kolar Gold Fields Labour Union, at the City Y.M.C.A., on Wednesday the 20th August 1941 at 8 p.m. by Messrs. T.L.A.Acharya and T.Ramachandra.

Most of the local correspondents and Messrs. M.R. Keithan and V.S.Narayana Rao were the persons that attended the function. Mr.K.T.Basnyam though invited to be present did not attend the same. Mr.Sarma while thanking the organisers of the party, made a speach eulogising the New Labour Act and stated that it is a step forward to that of the act in force in his own Presidency. He wished that the Act becomes a law at a very early date.

I have the honour to be,
Sir,
Your most obedient servant,

(Copy)

Sd/- M. Wynne,
SUPERINTENDENT OF POLICE,
BANGALORE CITY.

M Devadas
Deputy Commissioner,
Bangalore District.

MYSORE LABOUR BILL.

Measure welcomed - Defence exposed - Remidies suggested by K. T. BASHYAM, President, Bangalore Textile Union.

Introduction.

One of the major problems concerning Labour is the peaceful settlement of Industrial disputes. The unwise policy of treating such disputes as purely domestic on the ground, that the employers being masters and the workers but servants the later have no option except tosubmit to the conditions of work and wages laid down by the former, has led to immense suffering not merely to the parties concerned butto the public at large and insome measure to the administration of the country. A strike or lock out - involves alround suffering - particularly if it is connected with such public utility concerns as Railways, Motor Transport, Banking, Post and Telegraph, Sweeping and scavenging etc., It is therefore wise to prevent disputes from developing into direct - action, and apart from compelling arbitration the best way doing so is to bring about an early settlement which in most cases is possible and easy provid the parties are approached with understanding and sympathy. For this purpose workers have to be dealt with through accreditted representatives chosen by them; in other wods, labour Unions or Associations have to be encouraged and recognised an aspect which had been woefully neglected and sometimes resisted by the authorities in the state. It is also - necessary to create a machinery for bringing about a settlement between the parties - one that would command the confidence of both bring them together consiliate and establish good relationship. All this has long been recognised and acted in other countries including the adjoining British Indian - Provinces. Mysore has unfortunately had to go - through infinite suffering to secure small mercies and at long last we seem to be getting out of the tangle.

MEASURE WELCOME

The Mysore Labour Bill is a welcome more in the direction of organising labour and promoting peaceful and amicable settlement of disputes. It provides for the formation and recognition of worker's Association, formulation of demands and grievances, consiliations and if both parties agree for arbitration. Apart from minor defects the provisions in these matters are good as for as they go.

But there are a few fundamental and fatal defec which unless removed or remidied are liable and in my opinion certain to wreck the entire scheme and either enslave labour accelerate suffering or render the law futiles and helpless.

NEED FOR FEDERATION.

The first and foremost is the disruption of labour. It is provided that employees in any industrial undertaking can combine in to an association and that it will be recognised. Every factory mill and mine, every firm, company, form and work-

workshop, employing more than hundred workers can have an association of its own. But there is no provision for the combination of workers as one body nor even for a combination of workers engaged in similar work such as textiles, transport, mining etc. Workers will be divided into seperate and unconnected groups functioning independently of each other. This is further accutuated by the provisions in Sec.7(e) and Sec.24. The former - directs that not more than two non-employees can be admitted into any association as honourary members and further that " no one shall be an honorary member of more than one association at the same time." That makes it impossible for one association to have any link with ~~other~~ another association. The later section declares that strike shall be illegal " which has any object other than or in addition to the furtherance of any industrial dispute with in the industrial undetaking in which the strikes are engaged." There can be no means of any forcing a common policy or demand by the workers in general; and even in the matter enforcing the demand in any particular undertaking the workers therein cannot seccure the support of their fellow workers in other undertakings. Not only are sympathetic strikes thus effectively presented but even in the matter of rendering monetary help the law forbids any act of sympathy. Section 8 prohibits the use of the fund of an association in that behalf. It will thus be seen that labour will be robbed off its unity solidarity and strength and broken up into futile and isolated frangments and been prey to unhealthy rivalries and demoralisation.

That is a catostrphy which cannot be compensated by recognition of associations. I shall not go so far as to say that you may as well profess to recognies a man dismembering him and recognisin every disjointed limb; but it is almost as bad as that. Unless, therefore, due provisions is made for formation and recognition of unions, of associations connected with the same occupation and of central federation of all the unions in the state the law will not only be useless but positively harmful. There may be nothing in the law to prevent the formation of a Federation, but unless it is recognised and entrusted statuary power to deal with the problems of Labour it will be either dormant and lifeless or perpetually engaged in conflict with authoroties.

ABOUR AND POLITICS.

I have referred to section 8 which deals with the object for which the funds of an association may be spent. That section prevents expenditure of funds not only from helping the workers of any other association when they are suffering and in need but also from carrying on political agitation or propaganda although within the limits of the law and in furtherances of the political rights and progress of the workers. No association can spend its money on educating its members to demand responsible government even a larger number of seats in the legislature! nor can it spend on elections to put up proper representatives to voice their opinions in the Assembly and in the Council. It is antignated untenable

view that labour should be free from politics. While exploitation of labour by political adventure is an evil, the divorce of Labour from politics is a greater evil, a danger and luckily also an impossibility. The remedy for the evil is to educate labour and allow it to realise its responsibility in the administration for the state. Day after day workers are being drawn from the educated classes and they, in common with the rest of the country yearn for a better economic order of society and know that political freedom and self Government are the very life and sole of people's honour and happiness. Prevention by force of law from healthy political education and propaganda will only result in driving their aspirations underground to develop in unwholesome directions. Trust begets and labour can be trusted to develop a sense of responsibility it has already and permitted to deal with political problems. That Labour is represented in the legislatures is itself sufficient reason to allow and to encourage it to interest itself in politics. How is the labour representative going to be useful member of the legislature unless he is an intelligent and well balanced student of politics? How is the proper representative to be chosen by the workers unless the later are aware of the political problems and the ability for the candidate to tackle them on their behalf? How are the workers to understand the political problems and give the necessary - mandate to their representatives unless they educate themselves and carry on propaganda among the public to secure support for their demands? It is idle to seek seperation of labour from politics.

There is in support of this view no less in authority the Prime Minister Mr.Winston Churchill who stated once in the House of Commons, " I should have no hesitation in saying that it is quite impossible to prevent Trade Unions from entering the political field. The sphere of industrial and political field. The sphere of industrial and political activity is often indistinguishable, always overlaps; and representation in Parliament is - absolutely necessary to Trade Unions and the momen you touch representation you reach the very near and centre of political life."

Provision must therefore be made for the inclusion of political propaganda as an item of legitimate expenditure. It may be stated that Government may under Sec.8(b) notify the same. They may or they may not. They may impose conditions negativing in effect what is granted in name. In other places such provisions are made by constitution of seperate funds. It does not seem necessary to do so here. The general funds may be made available for it as for the other objects specified in the section.

DISRUPTION OF LABOUR.

I have adverted to Sec.24 as a provision which militates against the unity of the workers. I am strongly of opinion that the Section must be altogether delated.

I cannot understand what [redacted]

be gained by the restriction that the same person cannot be an honorary member of one association unless it be to disrupt the Labour. If it is feared that a strong man will dominate labour and exploit it, I must say that the fear is - groundless. In any case, cannot members of the same organisation enter all the associations and will not the head of that organisation still dominate and exploit if he wants to do so? Fear and distrust cannot lead to peace and harmony. The provision of law in this connection is obviously based on distrust of Labour and fear of the politician. It should not be.

RIVAL ASSOCIATIONS.

As the Bill stands there is room for encouragement of rival associations which ought not to be. There should be not more than one association for every undertaking either formed or recognised otherwise fissiparous tendencies will be encouraged and workers will be helpless against exploitation.

APPEAL AGAINST REGISTRAR.

The declaration of Registrar regarding the illegality of a strike as Sec.28 stands, is unquestionable though it may be erroneous and unsustainable. The Magistroll before whom the worker is prosecuted cannot enquire into the legality of the strike so long as the Registrar's declaration, right or wrong is there. He cannot go behind that declaration however unlawful the declaration may be. The same argument applies to declarations regarding Lock out contemplated under section 27.

It is essential therefore that the word "Lawfully" should be inserted before the word "declared" in each of the sections. I would also suggest that such declarations should be appealable to the court of arbitration whose decision, though not binding on the Magistrate may induce the parties to act in the light of that decision so as to avoid further trouble.

It seems to me that there is some lacuna regarding the timings of the various stages through which a dispute may have to pass before it is either settled amicably or allowed to develop into a strike or lockout. Under section 10 (2) if and when a dispute arises the matter has to be reported to employer. The employer is directed to report the same to the Commissioner who " In with 15 days after receipt of such notice" shall ascertain whether the proposed change is acceptable to both parties. There is nothing to fix the time within which the employer must "forward a copy of the notice to the Commissioner." If an employer receives the notice and keeps it by for a considerable time without forwarding it, there is nothing in the law to compel him to expedite the issue. Ordinarily no employer may do so; but where the law permits, a loophole of the kind, an atmosphere of opposition usual

usually generated by such disputes, may induce one to take advantage of it and snap his fingers at the workers, and score a point over them. This has to be remedied by fixing a time limit say three days or a week, after receipt of each notice within which the employer must forward a copy to the Commissioner.

If the parties disagree the commissioner "shall report to the Chief conciliator for initiating conciliation proceedings" and it is provided by sec.12 (1) that the conciliator shall conclude the enquiry "within one month of initiation of conciliation proceedings." There is nothing to show within what time he should initiate proceedings, if on receipt of the report of the Commissioner, the Chief Conciliator does not proceed to do anything for a considerable time there is nothing in law to compel him to to expedite the initiation. A time limit has to be fixed within which after receipt of the Commissioner's report of the Chief Conciliator should initiate, proceedings.

It is further provided, that is, parties agree to refer the dispute to arbitration, the chief conciliator shall submit the application to Government who shall refer it to the court of arbitration and the court shall certify to the Chief conciliator and to the parties its words which shall be binding on the parties. There is no time limit fixed for any of the three stages, the time within which the chief concilator should submit the application to the Government, the time within which the government should refer it to the court, and the time within which the court must grant and certify its award. A week each for the first two stages and a fortnight for the last may be a reasonable maximum.

COMPULSORY ARIBITRATION.

The Bill does not provide for compulsory rbitration. It is possible that in spite of the fforts at conciliation the parties do not agree ither for any settlement suggested or for arbitraion and award. The Bill embriases a strike or a ockout under such circumstances and leaves the ispute to be settled as a result of such direction --the party who can hold out longer being able to ictate terms to the others, unless a settlement is rrived at during the course of the strike or lockut. That is what happens at present and it seems waste of time and energy to enact a lw which eaves us nx no better for all its operation. Even ow conciliation is sought to be effected and the aw takes us no further. No doubt associations are ecognised, but that does not settle a dispute. No oubt again that strikes will not be deemed illegal f conducted after failure of negotiations; but hat is not a fret belief, since even now strikes re not immaterial and academical. The point is, here there is a genuine case for one party and the ther party is unyielding is there anything in the aw to compel the other party to yield. There is nothing to compel. There is of course much to induce.

Successful conciliation being only a possibility what is left in the law to present direct action?

Arbitration if agreed to by both parties. I doubt if whether having regard to the terms of the parties they will at all agree. If the employers feel that the workers are either disimited is too just to be resisted before a court of arbitration they will not, and cannot be expected to, agree to arbitration. Labour under such circumstances will have to undergo unmerited suffering or forego its just rights. Compulsory Arbitration is the only remedy. Bombay has had to adopt it recently and it is in vague in many countries, Austria, New Zealand, Canada, United States etc.

There is no doubt that compulsory arbitration has its disadvantages. Compulsion in any form and for any purpose however landable has in its very nature an element of discontent inharmony with the scheme of promoting friendly relationship. It may defer settlement by conciliation each party expecting to succeed in the court of Arbitration and unwilling to yield to reenegotiation. But it may also be fearing the case may gl against it, each party will agree to what it can secure by conciliation than loose heavily in the arbitration. It is also feared that the court of Arbitration may not be all that is expected to be, that it may be dominated by the Government, a fear enhanced by the fact that in Mysore Government is itself one of the biggest employers and not responsible to the people for its act. I cannot say that the fear is unfounded but I feel that the balance of advantage, for Labour, Employer, Industry and the public alike, is in favour of compulsory Arbitration. I should like in this connection the opinion of Mr.V.Shivaram Prof. of political Science in Lucknow University who in one of his lectures at Delhi University state "Vigorous against compulsory settlement of industrial disputes of any kind are made by both employers and also employees, but unless there is enormous improvement in industrial relations which is not the case in India now the State has to step in and establish compulsory courts or tribunals in the interests of industrial peace and general welfare of the community."

OTHER DEFEC

A few other defects requiring attention may just be mentioned. Sec. 5 lays down that it is the duty of the Labour Commissioner to help in the formation of Association and to assist and guide the officers of such Associations. While help and assistance may be welcome there may be trouble about guidance. The Commissioner may take suggestions not altogether acceptable to the Associations and conflicts may arise. I would rather that the Associations were free to err and learn than be dictated to under guise of guidance the word "guide" must the removed. Under sec. 6 (3) the Registrar has the power to refuse registration if "prescribed conditions" are not fulfilled "prescribed" is defined in sec. 3 (18) as "prescribed by rules made under the act". The conditions should be

be definitely ~~xxxx~~ laid down in the Act itself and should not be left indefinitely to be laid down by the Government. The right to have an Association registered and recognised being vested by the legislature under conditions set forth in sec.7 it would not be open to the executive to control and negative it. The nomenclature is perhaps too ambitious. The Bill concerns only the settlement of disputes, the formation of Associations being incidental to the object in view. The Mysore Industrial Disputes act may per haps be more appropriate.

CONCLUSION.

I have indicated [illegible] some of the defects in the law, proposed with the modifications, suggested there can be no doubt that the measure will be welcome as a step in the right direction and may be introduced early if not immediately, the object being ~~xx~~ quite unexceptionable.

THE BANGALORE WOOLLEN, COTTON & SILK MILLS CO. LD.

VICTORY

TELEGRAPHIC ADDRESS:
WOOLLEN, BANGALORE.

TELEPHONE No. 2037.

BANGALORE CITY, 26th September 1941.

H. V. Narayana Rao Esq.,
Secretary to Government,
Law Department,
BANGALORE.

OFFICE OF THE SECRETARY
28 SEPT. 1941
REPRESENTATIVE ASSEMBLY AND LEGISLATIVE COUNCIL

SECY. LAW DEPT.
28 SEP. 1941
GOVT OF MYSORE

Dear Sir,

MYSORE LABOUR (EMERGENCY) ACT.

We suggest for your consideration the following Ammendments to this Act.-

SECTION 13(3). No time limit is specified. The words "within 3 days of its receipt" should therefore be inserted after application in the 2nd line. Also the words "within a week after receipt of such application" should be included at the end of the Section. This sub-section will then read

> "The Chief Conciliator shall thereupon submit the application within 3 days of its receipt to the Government who shall refer it to the Court of Arbitration or to the Sole Arbitrator, if one is mentioned in the application within a week after receipt of such application"

SECTION 23(3) & (4). The period that a worker is kept out of employment is not clearly defined in sub-section 3 and if the case should go to Appeal it might ultimately be a matter of years that the worker is out of employment and the wording

of the Section implies that the employer shall pay the dismissed employee during this period. This is obviously undesirable and we suggest therefore deleting these sub-sections and recommend that Section 64(3) of the Bombay Industrial Disputes Act would be preferable. This sub-section of the Bombay Act reads as follows.-

> "The Court trying any offence under this section may direct that out of the fine recovered, such amount as it deems fit shall be paid to the employee concerned as compensation".

SECTION 27. For clarification we suggest that the words "in accordance with the provisions of this Act" should be inserted after the word "Illegal" in the 3rd line.

SECTION 32. The word 'Constituted' to be substituted by the word 'Registered'.

Further, the object of the Act is only to have one Association of Employees in an Industrial undertaking. The wording of this Section does not clearly define this object so we recommend that an additional sub-section to Section 6 dealing with Registrar of Associations, should be included reading as follows.

"Only one Association of Employees shall be entitled to registration for each Industrial undertaking".

Yours faithfully,

For The Bangalore Woollen Cotton & Silk Mills Co., Ltd.,
For and on behalf of
BINNY & CO., (MADRAS) LTD.,

Amsaed

AGENTS, SECRETARIES & TREASURERS.

Letter dated 30th September 1941 from the Secretary The Kolar Gold Field Mining Board, Oorgaum, to the - Secretary, to Government, Development Department.

I have the honour to refer to the Mysore Labour (Emergency) Act, 1941 and to the draft Mysore Labour Rules framed thereunder and to submit for favourable consideration by Government the following objections and suggestions

The Mysore Labour (Emergency) Act, 1941.

Section 2(1). It is submitted that the intention of th Act is that there should be one Association of employees only in an industrial undertaking, but that the relative section does not clearly define such intention. Whilst it is not desired to discuss the principle of compulsory membership to an association of employees it is consider that the advantages of the Act ~~ix~~ as a whole would be nullified should more than one association be permitted in an industrial undertaking and it is recommended there fore that Section 2(1) be extended to include the follow ing :-

" .....
'provided that only one association
'of employees shall be constituted
'within an industrial undertaking"

Section 8(c). The meaning of the last words in this Sub Section

"or with a person whom the member
"employs"

is not clear and it is suggested that they should be deleted

Section 13(3). It is recommended that this sub-section be amended to read as follows :-

> "The Chief Conciliator shall thereupon submit
> "the application within 3 days of its receipt
> "to the Government who shall refer it to the
> "Court of Arbitration or to the sole Arbitrator,
> "if one is mentioned in the application, within
> "7 days after receipt of such application".

Section 23 - (3) and (4). It is recommended that these two sub-sections be deleted and that section 64(3) of the Bombay Industrial Disputes Act be incorporated as follows:-

> "The Court trying any offence under this Section
> "may direct that out of the fine recovered, such
> " amount as it deems fit shall be paid to the
> "employee concerned as compensation"

The reason for suggesting this substitution is that no limit is defined to the period over which the employer shall continue to pay wages to a worker out of the employment which might conceivably be a matter of years.

Section 27. After the word "illegal" in the 3rd line the words

> "in accordance with the provisions
> "of this Act"

should be inserted.

Sections 27 and 28. It is suggested that these sections do not make clear the finality of otherwise of a declaration by the Registrar of the legality or illegality of strikes and lock-outs and it is considered desirable that it should be made clear that such declarations are open to appeal to

to the Courts or to the Court of Arbitration constitu ed under the Act.

Section 32. It is submitted that the word "registered should be substituted for the word "constituted".

Hon Sec. Leg

THE MYSORE SPINNING & MANUFACTURING CO., LTD.

N. SIRUR & CO., LTD.
MANAGING AGENTS
BOMBAY
TELEGRAMS:-"CHAMUNDI"
BOMBAY.
TELEPHONE:-22947.
MILL AT BANGALORE (CITY).
TELEGRAMS:-"CHAMUNDI
BANGALORE.

COPIED

Registered Office,
TEMPLE BAR BUILDING,
70, FORBES STREET, FORT.

BOMBAY, 29th September 1941.

ly refer to # 16311

Registered post

From

N. Sirur & Co., Ltd.,
Managing Agents,
The Mysore Spg. & Mfg. Co., Ltd., and
Minerva Mills, Ltd.,
Bombay.

To

The Secretary to Government of Mysore,
Law Department,
Camp Mysore.

Sir,

Re: Mysore Labour Emergency Act.

We have the honour to send herewith a list of amendments which, we recommend, should be incorporated in the Mysore Labour Emergency Act.

We have the honour to be,
Sir,
Your most obedient servants,
N. SIRUR & Co., Ltd.

Managing Director.
Managing Agents,
The Mysore Spg & Mfg.Co.Ltd.
and Minerva Mills, Ltd.

Vtn
2
1/10/41.

WP 2

For perusal.
Minister (Law)

Encl: 1
DRP

WP 2/10/41

Legis. Branch for putting up with the bill for order.

WP 4/10

N. SIRUR & Co., Ltd.

Managing Director.
Managing Agents
The Mysore Spg.& Mfg.Co.Ltd
and Minerva Mills,Ltd.

ROUTINE NOTES.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

Letter — dated 5th October — from Mr. J. P. [illegible] Advocate — Bangalore — citing ~~inf~~ [illegible] giving his opinions re the proposed Labour Act — has forwarded

If approved this will be sent to me

Yes! Sir — for [illegible]

[illegible]

[illegible]

S. P. SAMANNAH. B.A., LL.B.
ADVOCATE

RESIDENCE: 'SANKARA VILAS'
SANKARAPURA
OFFICE: 651, CHICKPET

18835
18C

Bangalore City 5th October 1941

GOV. DEV. DEPT.
7 OCT 1941
GOVT. OF MYSORE

To The Secretary to Government
Development Department
Public Offices
Bangalore

Dear Sir

I seek your indulgence to give expression to my views and suggestions in regard to the forthcoming Labour Legislation

According to S.1(4) of the Emergency Act the enactment is not applicable to all industrial concerns in the State in the following sections 2(2) – its provisions could be extended to small undertakings I feel that unless the word 'small' explained [illegible] to cases in which a particular number of persons are employed. Lest confusion is inevitable a concern in which there are just a few employees would be subject [illegible]

under the Act though it appears that the intention to restrict operation of the Act to big concerns Sections 1 and 9 of the Act refer to cases where there are more than employees presumably, this figure was in mind when referring to small as being less than 100. It is better the intention is not left in doubt but made explicit

2 An association of employees has now to be registered if it satisfies the requirements of S.7 would it not be desirable that certain percentage, say not less all i.e. 50%, of employees should notify their intention by subscribing to the memorandum? So also there is no provision for striking out the name of an association even if the membership dwindles down to below 1/3 or any reasonable proportion. Are the number of employees

There is a restriction imposed regard to Hony Members of Committees should not be ex-employees of the, will permit employees

S. P. SAMANNAH. B.A., LL.B.
ADVOCATE

RESIDENCE: 'SANKARA VILAS'
SANKARAPURA
OFFICE 651, CHICKPET

Bangalore City 194

Page

11 and 7 enters in
one Company
relating to another Co
Felt that this may not have a
salutary effect It may tend to create
between the employers and employees
A resolution may at least be passed in
employees of concerns connected with the
same management being nominated or co-opted
by the Hon'ble Members

in regard to Government owned
concerns
laid down by the rules
that the not Members shall be for
among the persons I think the same
may be made applicable to private
the concerns that outside interfere
may be avoided

Thanking you
I remain Sir
Yours faithfully
S P Samannah

15389/48 - IV Sec 35

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

No. R.L. 105.

General and Revenue Secretariat,

Dated Bangalore, 28th November 1941.

NOTIFICATION

Under the provisions of Rule 36 of the Mysore Legislativ Rules, 1941, the Dewan has been pleased to order the publicatio in the Gazet of the accompanying Mysore Labour Bill, together with the Statement of objects and reasons.

By Order,

Venkataramanaiah

for Secretary to Government,
Law Department.

The Compiler, Mysore Gazette for publication in part IV o the Gazette and supply 350 copies to the Secretariat.

MYSORE LABOUR BILL.

Statement of objects and reas

There was till recently in Mysore no machinery for the settlement of industrial disputes. The increasing number of such disputes and the loss occasioned thereby to the employees, the employed and the public at large required that methods should be devised for preventing the occurrence of lightning strikes and lock-outs and securing their speedy termination when they occur.

In British India, as early as 1926 the Trade Union Act was passed into law and in 1929 the Trade Disputes Act was passed. The former Act legalises the formation of trade unions and gives protection to their legitimate activities. The Trade Disputes Act, 1929, provides for the constitution of Courts of Inquiry and Boards of Conciliation to examine trade disputes and endeavour to bring about a settlement and submit a report. Such report by the Court or Board is not binding on the parties. Reliance is placed on the force of public opinion which is expected to be framed on the basis of the report.

While helping the investigation of points in dispute such a procedure did not help to bring about a settlement In 1938 legislation was taken up in Bombay designed to bring about settlement by conciliation and arbitration By the Bombay Act, an award by an arbitrator is made binding on the parties to the arbitration, but reference to arbitration can be only at the request or approval of both the parties to a dispute. That Act has elaborate provisions for recognition of Unions and similar matters.

In Mysore, strikes and lock-outs have been unfortunately frequent of late. The report of *Rajasevaprasaktha* A. V. Ramanathan, who was appointed to go into the question of the recent strike at the Binny Mills, in Bangalore and the report of *Rajamantrapravina Diwan Bahadur* K. Matthan, who was appointed to enquire into the condition of labour in the Gold Fields at Kolar, both stressed the necessity for legislation to prevent lightning strikes and ensuring prompt settlement of trade disputes. A Committee was appointed by Government on 10th June 1941, to consider the question. The Committee consisted of representatives of employers and workmen and the Government Officers handling labour problems, with the Minister for Law as the Chairman. The Committee unanimously recommended the Bill now before the House.

In considering this question, two basic principles have been in view. The first is that any attempt to deal with unrest which is the cause of all disputes, must begin rather with the creation of an atmosphere unfavourable to disputes than with machinery for their settlement. The first factor contributing to unrest is the lack of means for mutual understanding between employers and employed. The growth of large scale industry renders impossible the close personal relations between the employer and the employed which obtains when employees are few. The only practical way in which such contact could be established is the formation of an association of employees in each large industrial undertaking with the statutory right of representing the employees.

The second principle is that when once a dispute occurs or difference exists between employer and employee, settlement should be secured through goodwill and mutual understanding between the parties than on any external or statutory pressure brought upon them. Objections to any scheme involving the compulsory reference of all disputes to arbitration are formidable quite apart from the practical difficulties that confront such a proposal. It has been considered therefore desirable that both conciliation as well as arbitration should be based on the consent of parties. But once such consent is given, an award is made binding on the parties.

The notes on clauses appended hereto indicate the main provisions of the Bill.

The members representing labour on the Committee requested that in view of general agreement in the Committee the Bill might be passed as an emergency measure excluding the provisions relating to standing orders which require time for being drafted. The Government published the report of the Committee and its Bill and were watching public opinion on the repor

On the 20th August 1941, a fresh strike occurred in the Bangalore Woollen and Cotton Mills, Ltd., Bangalore. In order to prevent the occurrence of lightning strikes, the Mysore Labour (Emergency) Act, 1941, was promulgated as an emergency measure. It is now proposed to place it permanently on the Statute Book.

NOTES ON CLAUSES.

Clause 1 (4) The provisions of the Bill are made applicable to all undertakings whether owned by a private person or by Government or by a local authority.

Clause 2. This clause recognises and declares the right of employees in an Industrial undertaking to combine among themselves into an association for the promotion of their common interests.

Clause 4. This clause provides for the appointment of a Commissioner of Labour, and where necessary of assistant Commissioners of Labour. He is empowered under sub-clause (2) to enter any place used for the purpose of an industry or as the office of any Registered Association and to call ~~xxxx~~ for and inspect all relevant documents and also to enter after notice any

premises provided by an employer for the purpose o residence of his employees.

Clause 6. This clause provides for the appointment of Registrar of Associations and for the Registration by him of associations of the employees.

Clause 7. The matters to be provided on ~~provisions which have to be contained with~~ the rules of an association before it can become entitled to registration under the Act are specified in this clause. Provision is also made for the admission of two outsiders as officers of an association.

Clause 8. The objects on which the general funds of ~~an~~ a Registered association may be spent are specified here.

Clause 9. The conditions of service existing in particular undertaking are required to be reduced to writing and submitted by an employer to the Commissioner of Labour within 3 months after the commencement of the Act. Where the registered association of the employees of an undertaking object to any points contained therein as being inconsistent with the existing practice, they

s. The
enquiry
m. Stand-
y the
d agreements
ered
chance
ken to the
case may

Accepting in part an amendment moved in the Assembl and approved by a majority, a right of appeal to the Cour of Arbitration has been provided in this clause against the settlement of the first Standing Orders by the Commissioner.

as well as to the Commissioner and the Registrar. The Commissioner should ascertain within 15 days after the receipt of such notice whether the proposed change is mutually agreed to and if so should send a copy

thereof to the Registrar for registering in the Register of agreements. In case of disagreement, report has to be sent to the Chief Conciliator fc initiating conciliation proceedings

Clause 11. The Registrar of Associations is specified as Ex-officio Chief Conciliator in Mysore. The Government is also empowered by sub clause (2) to refer any dispute to a Board of conciliation consistin of 3 independent persons. Under the same sub clause parties to a dispute are entitled prior to the commencement or after the failure of conciliation proceedings to claim a settlement by such Board.

Clause 12. The conciliator or the Board is required to conclude the enquiry within one month of the initiation of the proceedings. Where a settlement is reached, the Memorandum of settlement has to be recorded in the Register of agreements. Where the parties do not come to a settlement, the report by the conciliator or Board has to be published by the Government in the official Gazette.

Clause 13. This clause provides for the constitution of a court of arbitration for determining industrial disputes. The parties to a dispute may at any time jointly apply for reference of the dispute to the Court and the award of the Court is to be binding on the parties to the dispute.

Clause 14. No notice of change in respect of an agreement or settlement can be given within six months thereof and in the case of an award within one year thereof.

Clauses 19, and 20. Any information furnished by a party to an Industrial dispute ~~be treated as confidential~~ as, where the parties so desire it, to be treated

as confidential and any person who contravenes is liable on conviction to punishment in fine which may extend to Rs. 1000.

Clauses 21 and 22. An employer cannot make any change in any industrial matter in regard to which a standing order has been settled, or before an agreement referred to in clause 10 is arrived at or before conciliation proceedings are completed or an award is given, and any employer who contravenes this requirement is liable to a penalty of Rs.5,000/- and in case of a continuing offence with an additional fine of Rs.200/- per day.

Clause 23. An employer cannot under this clause dismiss, reduce or punish an employee for ~~being con-~~ specified lawful activities nected with a registered association.

Clauses 24, 25, 26, 27 and 28. These clauses declare that strikes and lock-outs will be illegal if commenced without the requisite notice or in contravention of any settlement or award or during conciliation or arbitration proceedings or before the expiry of 14 days after the publication of the report of a conciliator or Board and provides suitable punishments.

Clause 29. Instigation by outsiders of illegal strikes or lock-outs is made punishable under this clause

Clause 34.- The first part of this clause ~~corresponds to sections 1 and 3 of the British Trade Disputes Act, 1906, and section 18 of the British Indian Trade Unions Act, 1926, and~~ protects registered associations and their officers and members from certain civil actions. An important type of action which this clause will prevent is a suit arising out of the persuasion exercised on members and others to join in a strike where that strike (as is frequently ~~to~~ the case) involves breach of contract on the part of employees. The second part of this clause gives registered associations a large measure of immunity from liabilities arising out of acts of their agents.

Clause 35.- This clause ~~is based upon section 18 of the British Indian Trade Unions Act, 1926, and~~ protects agreements between members of registered associations which would, but for this clause, be bad for the reason that any of the objects of the agreement are in restraint of trade. Though ~~certain~~ such agreements are thus made lawful the proviso to this clause precludes any court from entertaining any proceedings instituted with the object of enforcing or recovering damages for the breach of such agreements ~~as to the conditions of employment~~ in so far as they relate to the conditions on which any member of an Association shall or shall not work

The Mysore Labour Bill.

WHEREAS it is expedient to make provision for the promotion of peaceful and amicable settlement of industrial disputes by conciliation and arbitration and the organisation of industrial employees into associations to secure their welfare, and for certain other purposes hereinafter provided:

IT IS hereby enacted as follows:—

Short title, commencement, extent and application.

(1) This Act may be called the Mysore Labour Act, 194

(2) This section shall come into force at once. The Government may, by notification in the official Gazette, apply all or any of the other provisions of this Act from such date as may be specified in the notification.

(3) It extends to the whole of Mysore.

(4) It shall apply to all industrial undertakings, whether owned by a person or by the Government or by a local authority.

Recognition of association of employees.

2. (1) The right of employees in an industrial undertaking to combine into an association for the promotion of their common interests is hereby recognised and declared.

(2) The Government may, on the recommendation of the Commissioner of Labour, extend this right to employees in small industrial undertakings engaged in work of the same nature in any local area or to employees in industrial undertakings engaged in work of the same nature located in different areas.

Definitions.

3. In this Act, unless there is anything repugnant in the subject or context,—

(1) "award" means any interim or final determination in an Arbitration proceeding under this Act;

(2) "Board" means the Board of Conciliation appointed under this Act;

(3) "change" means a change in any industrial matter;

(4) "Commissioner of Labour" includes an Assistant Commissioner of Labour;

(5) "Conciliation proceeding" means any proceeding held by a Conciliator or the Board under this Act;

(6) "Conciliator" means any Conciliator appointed under this Act and includes the Chief Conciliator or a Special Conciliator;

(7) "Court" means a Court of Arbitration appointed under this Act;

(8) "employee" means any person employed to do any skilled or unskilled manual or clerical work for hire or reward in any industry and includes, for the purposes of any proceedings under this Act in relation to any industrial dispute, an employee discharged on account of such dispute relating to a change in respect of which a notice is given under section 10 whether before or after the discharge

(9) "employer" includes—

a) any agent of an employer

b) where an industry is conducted or carried on by a department of the Government, the

authority prescribed in that behalf, and where no such authority has been prescribed, the head of such department;

(c) where an industry is conducted or carried on by or on behalf of a local authority, the Chief Executive Officer of such authority; or

(d) where the owner of any industry in the course of or for the purpose of conducting such industry contracts with any other person for the execution by or under the contractor of the whole or any part of any work which is ordinarily part of the said industry, the owner of such industry;

(10) "industrial dispute" means any dispute or difference between an employer and employee or employees which is connected with any industrial matter;

(11) "industrial matter" means any matter relating to work, pay, wages, reward, hours of work, privileges, rights or duties of employers or employees, or the mode, terms and conditions of employment or non-employment and includes—

(a) all matters pertaining to the relationship between employers and employees, or to the dismissal or non-employment of any person;

(b) all matters as to the demarcation of functions of any employees or classes of employees;

(c) all matters pertaining to any right or claim under or in respect of or concerning an agreement, settlement or award made under this Act, and

(d) all questions of what is fair and right in relation to any industrial matter having regard to the interest of the person immediately concerned and of the community as a whole;

(12) "industrial undertaking" means a unit of industry under one employer in the same city, town or village;

(13) "industry" includes—

(a) any business, trade, manufacture or undertaking or calling of employers; and

(b) any calling, service, employment, handicraft or industrial occupation or avocation of employees;

(14) "local area" means an area notified as such by the Government;

(15) "lock-out" means the closing of a place or part of a place of employment or the total or partial suspension of work by an employer or the total or partial refusal by an employer to continue to employ persons employed by him, where such closing, suspension or refusal occurs in consequence of an industrial dispute and is intended for the purpose of compelling those persons or of aiding another employer in compelling persons employed by him to accept any term or condition of or affecting employment

(16) "member" means a person who is an ordinary member of an association and who is paying subscription of not less than one anna per month and the term "membership" shall be construed accordingly, and shall

include an honorary member holding an office in the association

(17) "prescribed" means prescribed by rules made under this Act;

(18) "Registered Association" means an association of employees registered under this Act;

(19) "Registered Agreement" means an agreement registered under section 10

(20) "Registrar" means the Registrar of Associations appointed under this Act

(21) "Schedule" means a schedule appended to this Act;

(22) "settlement" means a settlement arrived at during the course of a conciliation proceeding; and

(23) "strike" means a total or partial cessation of work by employees employed in an industry acting in combination or a concerted refusal or a refusal under a common understanding of employees to continue to work or to accept work where such cessation or refusal is in consequence of an industrial dispute in any industry and is intended for the purpose of compelling any employer to accept any term or condition of or affecting employment.

Commi of Lab his pov

4. (1) The Government shall appoint a person as Commissioner of Labour whose jurisdiction shall extend throughout Mysore.

(2) The Government may also appoint for any local area or otherwise one or more Assistant Commissioners of Labour who shall exercise such of the powers and perform such of the duties of the Commissioner as may be delegated by him, and subject to his control and supervision.

(3) For the purpose of exercising his powers and performing his duties, the Commissioner may, after giving reasonable notice, enter any place used for the purpose of any industry or as the office of any Registered Association and shall be entitled to call for and inspect all relevant documents which are necessary for the due discharge of his duties and powers under this Act. The Commissioner may for the same purpose enter, after giving reasonable notice, any premises provided by an employer for the purpose of residence of his employees.

(4) All particulars contained in or information obtained from any document inspected or called for under sub-section (3) shall, if the person in whose possession the document was, so requires, be treated as confidential.

(5) The Commissioner shall be entitled to appear in any proceeding under the Act and also to attend meetings of Registered Associations.

Commissioner's duties.

5. It shall be the duty of the Commissioner to help in organising association of employees in each industrial undertaking employing not less than 100 workmen, and to assist and guide the officers of Registered Associations in the discharge of their duties and in developing the work of such Associations.

Registrar of Associations.

6. (1) The Government shall appoint an officer to be Registrar of Associations for Mysore.

(2) He shall maintain a Register of Associations and such other Registers as may be prescribed.

(3) On receipt of an application from an association of employees for registration and on payment of the prescribed fee, the Registrar shall, if he is satisfied that

the association fulfils the prescribed conditions, register the association and issue a certificate of registration.

(4) Every such Registered Association shall be a body corporate by the name under which it has been registered and shall have perpetual succession and a common seal with power to acquire and hold both movable and immovable property and to contract, and shall by the said name sue and be sued.

Provisions to be contained in the rules of an association.

An association shall not be entitled to registration under this Act unless the executive thereof is constituted in accordance with the provisions of this Act, and the rules thereof provide for the following matters, namely,—

(*a*) the name of the association;

(*b*) the whole of the objects for which the association has been established;

(*c*) the whole of the purposes for which the general funds of the association shall be applicable, all of which purposes shall be purposes to which such funds are lawfully applicable under this Act;

(*d*) the maintenance of a list of the members of the association and adequate facilities for the inspection thereof by the officers and members of the association;

(*e*) the admission of ordinary members who shall be members actually engaged or employed in the industrial undertaking concerned and also the condition for the admission of honorary members as officers; provided that not more than two such members shall be so admitted into any association and provided further that no one shall be an honorary member of more than one association at the same time;

(*f*) the conditions under which any member shall be entitled to any benefit assured by the rules and under which any fine or forfeiture may be imposed on the members;

(*g*) the manner in which the rules shall be amended, varied or rescinded;

(*h*) the manner in which the members of the executive and the other officers of the association shall be appointed and removed;

(*i*) the safe custody of the funds of the association, an annual audit in such manner as may be prescribed, of the accounts thereof and adequate facilities for the inspection of the account books by the officers and members of the association;

(*j*) the manner in which the association may be dissolved; and

(*k*) the procedure to be followed before the association can call a strike, including a secret ballot of the members and the minimum votes necessary.

When general funds may be spent.

8. The general funds of a Registered Association shall not be spent on any other objects than the following, namely,—

(*a*) the payment of salaries, allowances and expenses to officers of the association

(*b*) the payment of expenses for the administration of the association, including audit of the accounts of the general funds of the association;

(*c*) the prosecution or defence of any legal proceeding to which the association or any member thereof is a party, when such prosecution or defence is undertaken for the purpose of securing or protecting any r

association as such or any rights arising out of the relations of any member with his employer ~~or with a person whom the member employs~~;

(*d*) the conduct of labour disputes on behalf of the association or any member thereof;

(*e*) the compensation of members for loss arising out of labour disputes;

(*f*) allowances to members or their dependents on account of death, old age, sickness, accidents or unemployment of such members;

(*g*) the provision of educational or social benefits for members (including the payment of the expenses of funeral or religious ceremonies for deceased members

(*h*) subject to any conditions contained in the notification, any other object notified by the Government in the official Gazette.

Standing orders regarding industrial matters.

9. (1) Within three months after the commencement of the Act, the employer in respect of every industrial undertaking employing not less than 100 workmen shall furnish the Commissioner with a statement of standing orders regulating the relations between him and his employees in respect of matters specified in Schedule I of this Act and simultaneously furnish a copy of the same in English and Kannada to the Registered Association of employees

Clause 9(3).- An appeal shall lie to the Court of Arbitration from the order of settlement of the Standing Orders by the Commissioner, provided that such appeal is preferred within 15 days from the date of the settlement exclusive of the time for obtaining a copy thereof.

(4) The Commissioner or the Court of Arbitration, as the case may be, shall send a copy of the Standing Orders settled or the award made under the preceding sub-sections to the Registrar for registering it ~~them~~ in a Register of Standing Orders and Agreements.

(5) The Standing Orders approved by the Commissioner under sub-section (2) or the award made by the Court of Arbitration under sub-section (3), as the case may be, shall be determinative of the relations between the employer and his employees in all matters included th-

the Association and if so agreed to, send a copy relating to the change to the Registrar for registering it in the Register of Agreements and inform both parties. In case of disagreement within 15 days, he shall report to the Chief Conciliator for initiating conciliation proceedings under this Act.

(4) The employers and the Registered Association shall maintain records of all negotiations with each other and shall produce such records when called upon to do so during any subsequent proceedings under the Act.

Conciliators and Board of Conciliation.

11. (1) The Registrar of Associations shall be *ex-officio* Chief Conciliator in Mysore.

(2) The Government may, on the recommendation of the Chief Conciliator, appoint a Special Conciliator in respect of any dispute.

(3) During the pendency of any proceedings before the Conciliator under the foregoing provisions, the Government may, and if both the parties agree either prior to the commencement of such proceedings or after the failure of the Conciliator to bring about a settlement shall, refer the dispute to a Board of Conciliation consisting of three independent persons.

ciliation ceedings.

12. (1) The Conciliator or the Board shall conclude the enquiry within one month of the initiation of conciliation proceedings or the appointment of the Board, as the case may be.

(2) If a settlement be reached in the conciliation proceedings, the Conciliator or the Chairman of the Board shall send a report of proceedings with a copy of the memorandum of settlement to the Registrar and to both the parties.

3) The Registrar shall record the settlement in the Register of Agreements.

4) Where the parties do not come to a settlement, the Conciliator or the Board shall submit a report to Government through the Chief Conciliator and such report shall be published in the official Gazette not later than the second issue after the date of receipt of the report.

Court of Arbitration and proceedings in Arbitratio

13. (1) The Government may constitute a Court of Arbitration for determining industrial disputes.

(2) At any time during the progress of the conciliation proceedings, the employer and the Association concerned may jointly apply to the Chief Conciliator for referring the point in dispute to arbitration, forthwith.

(3) The Chief Conciliator shall thereupon submit the application to the Government who shall refer it to the Court of Arbitration or to the Sole Arbitrator, if one is mentioned in the application.

(4) The Court of Arbitration or the Sole Arbitrator shall certify its or his award to the Registrar and to the parties in dispute.

5) The Registrar shall record the Award in the Register of Agreements.

(6) The Award shall be binding on the parties to the dispute and on their successors and assigns and shall not be called in question in any civil or criminal Court or other judicial proceedings.

Limitation on notice of change.

14. No notice of change under section 10 shall be given in respect of a matter settled—

(a) by an agreement or settlement within six months from its registration, and

(*b*) by an award, within a year from its registration, provided that by consent of both parties an agreement to modify any such agreement, settlement or award, may be registered at any time.

15. All proceedings before the Commissioner of Labour or a Conciliator or a Board or a Sole Arbitrator shall be confidential. Proceedings before a Court of Arbitration shall be public except where the Court directs its sittings to be *in camera*.

Nature of proceedings before Conciliator and Court.

16. The Commissioner, an Assistant Commissioner, a Conciliator, every member of the Board of Conciliation and Sole Arbitrator and every member of the Court of Arbitration shall be deemed to be a public servant within the meaning of section 21, Indian Penal Code, as in force in Mysore.

Commissioner, Conciliator and member of Board to be public servants.

17. Any person who wilfully refuses entry to the Commissioner to any place which he is entitled to enter under section 4 or who fails to produce any document which he is required to produce, or who fails to comply with any requisition or order issued to him by or under the provisions of this Act shall, on conviction, be punishable with fine which may extend to rupees one hundred and in respect of a continuing failure, with an additional fine of rupees twenty-five per day for every day during which such failure continues after the last conviction for such failure.

Penalty for obstructing any person from carrying out his duties under this Act.

18. (1) In respect of every proceeding before them, the Conciliator, the Board of Conciliation, the Sole Arbitrator and the Court of Arbitration shall have the same powers as are vested in Courts under the Code of Civil Procedure, 1911, in respect of the following matters when trying a suit :—

Procedure before the Conciliator and Court.

(*a*) summoning and enforcing the attendance of any person and examining him on oath ;
(*b*) compelling the production of documents ;
(*c*) issuing commissions for the examination witnesses ;
(*d*) proof of facts by affidavits ;
and shall have such further powers as may be prescribed.

(2) (*a*) Every proceeding before a Court of Arbitration shall be deemed to be a judicial proceeding within the meaning of sections 192, 193 and 228 of the Indian Penal Code, as in force in Mysore, and within the meaning of the Contempts of Courts Act, 1930.

(*b*) Parties before the Court of Arbitration may be represented by counsel.

(3) There shall be no award of costs in any proceeding under this Act.

19. (1) If a party to an industrial dispute giving any information or producing any document in any proceeding under this Act makes a request in writing to the Conciliator, the Board, the Sole Arbitrator or the Court, as the case may be, that such information or the contents of such document may be treated as confidential, the Conciliator, the Board or the Sole Arbitrator or the Court, as the case may be, shall direct that such information or document be treated as confidential.

Information furnished by a party to be treated as confidential.

(2) The Conciliator or any member of the Board or Sole Arbitrator or Court or any person present at or

concerned in any proceeding under this Act shall not disclose any information or the contents of any document in respect of which a request has been made under sub-section (1) without the consent in writing of the party making the request under the said sub-section.

(3) Nothing in this section shall apply to disclosure of any information or the contents of any document for the purpose of a prosecution under this Act or under any other law for the time being in force.

Penalty for disclosing confidential information.

20. If a Conciliator or a member of a Board or Sole Arbitrator or Court or any person present at or concerned in any proceeding under this Act wilfully discloses any information or the contents of any document in contravention of this Act, he shall, on a complaint made by the party who gave the information or produced the document in such proceeding and on conviction, be punishable with fine which may extend to rupees one thousand.

Illegal changes.

21. (1) No employer shall make any change in any industrial matter in regard to which a standing order has been settled under section 9 or which is mentioned in Schedule II before the agreement referred in sub-section (3) of section 10 is arrived at or where no such agreement is arrived at before the conciliation proceedings are completed or in cases where the dispute is referred to aribitration, before the award has been given.

(2) No employer shall make any such change in contravention of the terms of a Registered Agreement, a settlement or an award.

(3) Any change made in contravention of the provisions of sub-section (1) or (2) shall be illegal.

Penalty for illegal changes.

22. (1) Any employer who makes any illegal change shall, on conviction, be punishable with fine which may extend to rupees five thousand and in the case of a continuing offence with an additional fine which may extend to rupees two hundred per day for every day during which the offence continues after his last conviction for such offence.

(2) An employer who acts in contravention of a standing order settled under section 9 shall, on conviction, be punishable with fine which may extend to rupees one hundred and in the case of continuing contravention of such standing order, with an additional fine which may extend to rupees twenty-five per day for every day during which such contravention continues after his last conviction for such contravention.

23. (1) No employer shall dismiss or reduce any employee or punish him in any other manner by reason of the circumstance that the employee—

for being connected with an association.

a) is an officer or member of a Registered Association or of an association which has applied eing registered under this Act; or

b) is entitled to the benefit of a Registered Agreement, settlement or award; or

c) has appeared or intends to appear as a witness has given evidence or intends to give idence in a proceeding under this Act; or

d) has gone on or joined a strike which is not illegal under the provisions of this Act.

(2) Whoever contravenes the provisions of sub-section (1) shall, on conviction, be punishable with fine which may extend to rupees one thousand.

(3) Where the offence is one of wrongful dismissal, the Court shall direct that the employer shall pay the dismissed employee wages for the period he is kept out of employment, based on his average wages for the twelve months preceding the date of dismissal.

(4) Where the offence is one of wrongful reduction or other punishment, the Court trying any offence under this section may direct that out of the fine recovered, such amount as it deems fit shall be paid to the employee concerned as compensation.

Illegal strikes and lock-outs.

24. A strike or a lock-out shall be illegal which has any object other than or in addition to the furtherance of an industrial dispute within the industrial undertaking in which the strikers or employer locking-out are engaged.

Illegal strikes.

25. (1) A strike shall be illegal if it is commenced or continued—

(a) without giving notice in accordance with the provisions of section 10, and before the initiation of conciliation proceedings where an agreement is not arrived at;

(b) only for the reason that the employer has not carried out the provisions of any standing order or has made an illegal change;

(c) in cases where conciliation proceedings in regard to the industrial dispute to which the strike relates have commenced, before the expiry of 14 days after the publication of the report;

(d) in cases where the dispute has been referred to arbitration before an award has been given;

(e) in contravention of the terms of a Registered Agreement, settlement or award.

(2) In cases where conciliation proceedings in regard to any industrial dispute have been completed, a strike relating to such dispute shall be illegal if it is commenced at any time after the expiry of two months after the publication of the report.

Illegal lock-outs.

26. (1) A lock-out shall be illegal if it is declared, commenced or continued—

(a) without giving notice in accordance with the provisions of section 10, and before the initiation of conciliation proceedings where an agreement is not arrived at;

(b) in cases where conciliation proceedings in regard to the industrial dispute to which the lock-out relates have commenced before the expiry of 14 days after publication of the report;

(c) in cases where the dispute has been referred to arbitration, before an award has been given;

(d) in contravention of the terms of a Registered Agreement, settlement or award.

(2) In cases where conciliation proceedings in regard to any industrial dispute have been completed, a lock-out relating to such dispute shall be illegal if it is commenced at any time after the expiry of two months after the publication of the report.

27. Any employer who has declared a lock-out and continues it after it has been declared by the Registrar to be illegal shall, on conviction, be punishable with fine which may extend to rupees two thousand and five hundred and shall, in addition, be directed by the Court to pay

the employees kept out of employment by such lock-out, wages for the period they are so kept out, based on the average earned by each employee during the twelve months preceding the commencement of the lock-out.

Penalty for declaring or commencing an illegal strike.

28. Any employee who has gone on strike and continues to be on strike or who joins a strike, after it has been declared by the Registrar to be illegal shall, on conviction, be punishabe with imprisonment of either description for a term which may extend to 15 days or fine which may extend to rupees twenty-five and in the case of a continuing offence with an additional fine which may extend to rupee one per day for every day during which the offence continues after his last conviction for such offence subject to a maximum of rupees fifty.

Penalty for instigation, etc., of illegal strikes and lock-outs.

29. (*a*) If any person instigates or incites others to take part in, or otherwise acts in furtherance of, a strike or lock-out which is declared to be illegal by the Registrar, whether such strike or lock-out has commenced or not, he shall, on conviction, be punishable with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Explanation.—For the purpose of this section, a person who contributes, collects or solicits funds for the purpose of any such strike or lock-out shall be deemed to act in furtherance thereof.

(*b*) Any person who instigates or incites an employer or an employee to secure relief in respect of an industrial matter, otherwise than through the provisions of this Act shall, on conviction, be punishable with imprisonment of either description for a term which may extend to three months or with fine or with both.

Liability of the executive of an association.

30. Where anything is required to be done by any association by or under any provision of this Act, the person authorised in this behalf by the executive of the association or if no person is so authorised every member of the executive of the association shall be bound to do the same and shall be personally liable if default is made in the doing of any such thing.

Explanation.—For the purpose of this section, executive of an association means the body by whatever name called to which the management of the affairs of he association is entrusted.

Certain Acts not to apply to Associations

31. The following Acts, namely,—

(*a*) The Societies Registration Act, 1904,
(*b*) The Mysore Co-operative Societies Act, 1918,
(*c*) The Mysore Companies Act, 1938, and
(*d*) The Insurance Act, 1939,

shall not apply to any Registered Association and the registration of any association of industrial employees under any such Act shall be void.

associate registered

32. No ~~organisation~~ of employees other than those ~~constituted~~ under this Act shall be recognised or permitted to be represented in any proceedings under this Act.

Persons acting in good faith not to be sued.

33. No suit or proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Immunity from civil suit in certain cases.

34. (1) No suit or other legal proceeding shall be maintainable in any civil Court against any Registered Association or any officer or member thereof in respect of any act done in contemplation or furtherance of an industrial dispute to which a member of the association is a party on the ground only that such act induces some other

person to break a contract of employment, or that it is in interference with the industry, business or employment of some other person or with the right of some other person to dispose of his capital or of his labour as he wills.

(2) A Registered Association shall not be liable in any suit or other legal proceeding in any civil Court in respect of any tortuous act done in contemplation or furtherance of an industrial dispute by an agent of the association if it is proved that such person acted without the knowledge of, or contrary to express instructions given by the executive of the association.

Enforcement of agreements.

35. Notwithstanding anything contained in any other law for the time being in force, an agreement between the members of a Registered Association shall not be void or voidable merely by reason of the fact that any of the objects of the agreement are in restraint of trade:

Provided that nothing in this section shall enable any civil Court to entertain any legal proceeding instituted for the express purpose of enforcing or recovering damages for the breach of any agreement concerning the conditions on which any member of an association shall or shall not work, or be employed.

Jurisdiction of Courts.

36. No Court inferior to that of a Magistrate of the First Class shall try offences under this Act.

Rules.

37. (1) The Government may make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may be made for all or any of the following matters, namely,—

(*a*) the form in which the certificate of registration may be issued;

(*b*) the constitution of a Board or Court and the qualifications for a Special Conciliator, or member of a Board or of the Court;

(*c*) the fee to be paid on applications under this Act;

(*d*) the manner in which the total number of employees is to be computed for the purposes of this Act;

(*e*) the other powers of the several authorities under section 18;

(*f*) the manner in which standing orders may be submitted under section 9;

(*g*) the form in which notice of change is to be given and the persons to whom copies of such notice are to be sent under section 10;

(*h*) the form in which a statement of the case is to be forwarded to a Special Conciliator, Board or Court or Sole Arbitrator;

(*i*) the procedure to be followed by the several authorities under this Act;

(*j*) the registers to be maintained by the employer, and the returns and the information to be periodically furnished by him to the Commissioner of Labour or to other authorities for the purposes of this Act;

(*k*) the officers to be deemed as employers in respect of industrial undertakings owned by the Government; and

(*l*) the form in which the memorandum of agreement, settlement or the award shall be drawn up and the manner in which it shall be recorded and published by the Registrar.

(3) The Government may also prescribe a fine not exceeding rupees one hundred for a breach of any such rule.

(4) The rules made under this section shall be subject to the condition of previous publication in the official Gazette.

Repeal and Savings.

38. The Mysore Labour (Emergency) Act, 1941 is hereby repealed. But any rules made, anything done and any action taken in exercise of any power conferred by or under the said Emergency Act shall be deemed to have been made, done or taken, in exercise of powers conferred by or under this Act as if this Act had commenced on the 26th day of August 1941.

SCHEDULE I.

SECTION 9.

1. Classification of employees, *e.g.*, permanent, temporary, apprentices, probationers, etc.
2. Manner of notification to employees of periods and hours of work, holidays, pay days and wage rates.
3. Shift working.
4. Attendance and late coming
5. Leave and holidays, conditions, procedure and authority to grant.
6. Liability to search and entry into premises by certain gates.
7. Temporary stoppages of work and rights and liabilities of employers and employees arising therefrom.
8. Termination of employment. Notices to be given by employer and employee.
9. Punishment for misconduct and the acts or omissions which constitute misconduct.
10. Means of redress for employees against unfair treatment or wrongful exaction on the part of the employer or his agent or servant.
11. Rules of discipline.

SCHEDULE II.

SECTION 10.

1. Reduction intended to be of permanent or semi-permanent character in the number of persons employed or to be employed not due to *force majeure*.
2. Introduction of rationalisation, efficiency or other new systems of work.
3. Starting, alteration or discontinuance of shift working otherwise than in accordance with the standing orders.
4. Withdrawal of any customary concession or privilege or change in usage.
5. Wages and total weekly hours of work.

No. to be on 19/12

NOTIFICATION.

No. R. L. 1051—Dated Bangalore the 28th November 1941.

Under the provisions of Rule 36 of the Mysore Legislative Rules, 1941, the Dewan has been pleased to order the publication in the Gazette of the accompanying Mysore Labour Bill, together with the Statement of objects and reasons.

By Order,

H. V. NARAYANA RAO,

Secretary to Government,

Law Department.

MYSORE LABOUR BILL.

Statement of Objects and Reasons.

There was till recently in Mysore no machinery fo the settlement of industrial disputes. The increasin number of such disputes and the loss occasioned thereb to the employees, the employed and the public at larg required that methods should be devised for preventing th occurrence of lightning strikes and lock-outs and securin their speedy termination when they occur.

A Committee was appointed by Government o 10th June 1941, to consider the question. The Committee consisted of representatives of employers and workmen an the Government Officers handling labour problems, wit the Minister for Law as the Chairman. The Committee unanimously recommended the Bill now before th House.

In considering this question, two basic principles have been kept in view. The first is that any attempt to dea with unrest which is the cause of all disputes, mus begin with the creation of an atmosphere unfavourable t disputes rather than with machinery for their settlement The first factor contributing to unrest is the lack of mean for mutual understanding between employers and employed. The growth of large scale industry render impossible the close personal relations between the employer and the employed which obtains when employees are few. The only practical way in which such contact could be established is the formation of an association of employees in each large industrial undertaking with the statutory right of representing the employees.

The second principle is that when once a dispute occurs or difference exists between employer and employee, settlement should be secured through goodwill and mutual understanding between the parties than on any external or statutory pressure brought upon them. Objections to any scheme involving the compulsory reference of all disputes to arbitration are formidable quite apart from the practical difficulties that confront such a proposal. It has been considered therefore desirable that both conciliation as well as arbitration should be based on the consent of parties. But once

such consent is given, an award is made binding on the parties.

The Mysore Labour Bill is framed on these principles.

The notes on clauses appended hereto indicate the main provisions of the Bill.

The members representing labour on the Committee requested that in view of general agreement in the Committee the Bill might be passed as an emergency measure excluding the provisions relating to standing orders which require time for being drafted. The Government published the report of the Committee and its Bill and were watching public opinion on the report.

On the 20th August 1941, a fresh strike occurred in the Bangalore Woollen and Cotton Mills, Ltd., Bangalore. In order to prevent the occurrence of lightning strikes, the Mysore Labour (Emergency) Act, 1941, was promulgated as an emergency measure. It is now proposed to place it permanently on the Statute Book.

Notes on Clauses.

Clause 1 (4).—The provisions of the Bill are made applicable to all undertakings whether owned by a private person or by Government or by a local authority.

Clause 2.—This clause recognises and declares the right of employees in an industrial undertaking to combine among themselves into an association for the promotion of their common interests.

Clause 4.—This clause provides for the appointment of a Commissioner of Labour, and where necessary, of Assistant Commissioners of Labour. He is empowered under sub-clause (3) to enter any place used for the purpose of an industry or as the office of any Registered Association and to call for and inspect all relevant documents and also to enter after notice any premises provided by an employer for the purpose of residence of his employees.

Clause 6.—This clause provides for the appointment of Registrar of Associations and for the Registration by him of associations of employees.

Clause 7.—The matters to be provided in the rules of an association before it can become entitled to registration under the Act are specified in this clause. Provision is also made for the admission of two outsiders as officers of an association.

Clause 8.—The objects on which the general funds of a Registered Association may be spent are specified here.

Clause 9.—The conditions of service existing in a particular undertaking are required to be reduced to writing and submitted by an employer to the Commissioner of Labour within three months after the commencement of the Act. Where the registered association of the employees of an undertaking object to any points contained therein as being inconsistent with the existing practice, they may submit to the Commissioner such objections. The Commissioner should thereupon hold a summary enquiry and settle the standing orders as found by him. Standing orders so settled have to be registered by the Registrar in a Register of standing orders and agreements.

Accepting in part an amendment moved in the Assembly and approved by a majority, a right of appeal to the Court of Arbitration has been provided in this clause against the settlement of the first Standing Orders by the Commissioner.

Clause 10.—Where an employer or a registered association intends to effect or desires any change in any standing order, a notice has to be given to the registered association or the employee as the case may be, as well as to the Commissioner and the Registrar. The Commissioner should ascertain within 15 days after the receipt of such notice whether the proposed change is mutually agreed to and if so should send a copy thereof to the Registrar for registering in the Register of Agreements. In case of disagreement, a report has to be sent to the Chief Conciliator for initiating conciliation proceedings.

Clause 11.—The Registrar of Associations is specified as *ex-officio* Chief Conciliator in Mysore. The Government is also empowered by sub-clause (3) to refer any dispute to a Board of Conciliation consisting of three independent persons. Under the same sub-clause parties to a dispute are entitled prior to the commencement or after the failure of conciliation proceedings to claim a settlement by such Board.

Clause 12.—The conciliator or the Board is required to conclude the enquiry within one month of the initiation of the proceedings. Where a settlement is reached, the Memorandum of settlement has to be recorded in the Register of agreements. Where the parties do not come to a settlement, the report by the conciliator or Board

has to be published by the Government in the official Gazette.

Clause 13.—This clause provides for the constitution of a court of arbitration for determining industrial disputes. The parties to a dispute may at any time jointly apply for reference of the dispute to the Court and the award of the Court is to be binding on the parties to the dispute.

Clause 14.—No notice of change in respect of an agreement or settlement can be given within six months thereof and in the case of an award within one year thereof.

Clauses 19 and 20.—Any information furnished by a party to an Industrial dispute has, where the parties so desire it, to be treated as confidential and any person who contravenes is liable on conviction to punishment in fine which may extend to Rs. 1,000.

Clauses 21 and 22.—An employer cannot make any change in any industrial matter in regard to which a standing order has been settled, or before an agreement referred to in clause 10 is arrived at or before conciliation proceedings are completed or an award is given, and any employer who contravenes this requirement is liable to a penalty of Rs. 5,000 and in case of a continuing offence with an additional fine of Rs. 200 per day.

Clause 23.—An employer cannot under this clause dismiss, reduce or punish an employee for specified lawful activities connected with a registered association.

Clauses 24, 25, 26, 27 and 28.—These clauses declare that strikes and lock-outs will be illegal if commenced without the requisite notice or in contravention of any settlement or award or during conciliation or arbitration proceedings or before the expiry of 14 days after the publication of the report of a Conciliator or Board and provides suitable punishments.

Clause 29.—Instigation by outsiders of illegal strikes or lock-outs is made punishable under this clause.

Clause 34.—The first part of this clause protects registered associations and their officers and members from certain civil actions. An important type of action which this clause will prevent is a suit arising out of the persuasion exercised on members and others to join in a strike where that strike (as is frequently the case) involves breach of contract on the part of employees. The second part of this clause gives registered associations a

large measure of immunity from liabilities arising out of acts of their agents.

Clause 35.—This clause protects agreements between members of registered associations which would, but for this clause, be bad for the reason that any of the objects of the agreements are in restraint of trade. Though such agreements are thus made lawful, the proviso to this clause precludes any court from entertaining any proceedings instituted with the object of enforcing or recovering damages for the breach of such agreements in so far as they relate to conditions on which any member of an Association shall or shall not work.

The Mysore Labour Bill.

WHEREAS it is expedient to make provision for the promotion of peaceful and amicable settlement of industrial disputes by conciliation and arbitration and the organisation of industrial employees into associations to secure their welfare, and for certain other purposes hereinafter provided:

IT IS hereby enacted as follows:—

1. (1) This Act may be called the Mysore Labour Act, 194

Extent and application.

(2) This section shall come into force at once. The Government may, by notification in the official Gazette, apply all or any of the other provisions of this Act from such date as may be specified in the notification.

(3) It extends to the whole of Mysore.

(4) It shall apply to all industrial undertakings, whether owned by a person or by the Government or by a local authority.

Recognition of association of employees.

2. (1) The right of employees in an industrial undertaking to combine into an association for the promotion of their common interests is hereby recognised and declared.

(2) The Government may, ~~on the recommendation of the Commissioner of Labour,~~ extend this right to employees in small industrial undertakings engaged in work of the same nature in any local area or to employees in industrial undertakings engaged in work of the same nature located in different areas.

provided that only one Association of employees shall be constituted in an industrial undertaking

OFFICE OF THE MINISTER FOR LAW.

Subclause (3) of Clause 2.

The Govt may, in their discretion, permit the ~~formation~~ Constitution of a federation of registered Associations in any local area, or in ~~any in~~ respect of any industry subject to such rules as may be prescribed in this behalf

8 out of 14

3. In this Act, unless there is anything repugnant in the subject or context,—

(1) "award" means any interim or final determination in an Arbitration proceeding under this Act;

(2) "Board" means the Board of Conciliation appointed under this Act;

(3) "change" means a change in any industrial matter;

(4) "Commissioner of Labour" includes an Assistant Commissioner of Labour;

(5) "Conciliation proceeding" means any proceeding held by a Conciliator or the Board under this Act;

(6) "Conciliator" means any Conciliator appointed under this Act and includes the Chief Conciliator or a Special Conciliator;

(7) "Court" means a Court of Arbitration appointed under this Act;

(8) "employee" means any person employed to do any skilled or unskilled manual or clerical work for hire or reward in any industry and includes, for the purposes of any proceedings under this Act in relation to any industrial dispute, an employee discharged on account of such dispute relating to a change in respect of which a notice is given under section 10 whether before or after the discharge;

(9) "employer" includes—

(*a*) any agent of an employer;

(*b*) where an industry is conducted or carried on by a department of the Government, the authority prescribed in that behalf, and where no such authority has been prescribed, the head of such department;

(*c*) where an industry is conducted or carried on by or on behalf of a local authority, the Chief Executive Officer of such authority; or

(*d*) where the owner of any industry in the course of or for the purpose of conducting such industry contracts with any other person for the execution by or under the contractor of the whole or any part of any work which is ordinarily part of the said industry, the owner of such industry;

(10) "industrial dispute" means any dispute or difference between an employer and employee or employees, which is connected with any industrial matter;

(11) "industrial matter" means any matter relating to work, pay, wages, reward, hours of work, privileges, rights or duties of employers or employees, or the mode, terms and conditions of employment or non-employment and includes—

(*a*) all matters pertaining to the relationship between employers and employees, or to the dismissal or non-employment of any person;

(*b*) all matters as to the demarcation of functions of any employees or classes of employees;

(*c*) all matters pertaining to any right or claim under or in respect of or concerning an agreement, settlement or award made under this Act, and

(*d*) all questions of what is fair and right in relation to any industrial matter having regard to the interest of the person immediately concerned and of the community as a whole;

(12) "industrial undertaking means a unit of industry under one employer in the same city, town or village;

(13) "industry" includes—

(*a*) any business, trade, manufacture or undertaking or calling of employers; and

(*b*) any calling, service, employment, handicraft or industrial occupation or avocation of employees;

(14) "local area" means an area notified as such by the Government;

(15) "lock-out" means the closing of a place or part of a place of employment or the total or partial suspension of work by an employer or the total or partial refusal by an employer to continue to employ persons employed by him, where such closing, suspension or refusal occurs in consequence of an industrial dispute and is intended for the purpose of compelling those persons or of aiding another employer in compelling persons employed by him to accept any term or condition of or affecting employment;

(16) "member" means a person who is an ordinary member of an association and who is paying subscription of not less than one anna per month and the term "membership" shall be construed accordingly, and shall include an honorary member holding an office in the association;

(17) "prescribed" means prescribed by rules made under this Act;

(18) "Registered Association" means an association of employees registered under this Act;

(19) "Registered Agreement" means an agreement registered under section 10;

(20) "Registrar" means the Registrar of Associations appointed under this Act;

(21) "Schedule" means a schedule appended to this Act;

(22) "settlement" means a settlement arrived at during the course of a conciliation proceeding; and

(23) "strike" means a total or partial cessation of work by employees employed in an ~~industry~~ acting in combination or a concerted refusal or a refusal under a common understanding of employees to continue to work or to accept work where such cessation or refusal is in consequence of an industrial dispute in any ~~industry~~ and is intended for the purpose of compelling any employer to accept any term or condition of or affecting employment.

4. (1) The Government shall appoint a person as Commissioner of Labour whose jurisdiction shall extend throughout Mysore.

(2) The Government may also appoint for any local area or otherwise one or more Assistant Commissioners of Labour who shall exercise such of the powers and perform such of the duties of the Commissioner as may be delegated by him, and subject to his control and supervision.

(3) For the purpose of exercising his powers and performing his duties, the Commissioner may, after giving reasonable notice, enter any place used for the purpose of any industry or as the office of any Registered Association and shall be entitled to call for and inspect all relevant documents which are necessary for the due discharge of his duties and powers under this Act. The Commissioner may for the same purpose enter, after giving reasonable notice, any premises provided by an employer for the purpose of residence of his employees.

(4) All particulars contained in or information obtained from any document inspected or called for under sub-section (3) shall, if the person in whose possession the document was, so requires, be treated as confidential.

(5) The Commissioner shall be entitled to appear in any proceeding under the Act and also to attend meetings of Registered Associations.

Commissioner's duties.

5. It shall be the duty of the Commissioner to help in organising association of employees in each industrial undertaking employing not less than 100 ~~workmen~~ employees, and to assist ~~and guide~~ the officers of Registered Associations in the discharge of their duties and in developing the work of such Associations.

Registrar of Associations.

6. (1) The Government shall appoint an officer to be Registrar of Associations for Mysore.

(2) He shall maintain a Register of Associations and such other Registers as may be prescribed.

(3) On receipt of an application from an association of employees for registration and on payment of the prescribed fee, the Registrar shall, if he is satisfied that the association fulfils the prescribed conditions, register the association and issue a certificate of registration.

(4) Every such Registered Association shall be a body corporate by the name under which it has been registered and shall have perpetual succession and a common seal with power to acquire and hold both movable and immovable property and to contract, and shall by the said name sue and be sued.

Provisions to be contained in the rules of an association.

7. An association shall not be entitled to registration under this Act unless the executive thereof is constituted in accordance with the provisions of this Act, and the rules thereof provide for the following matters, namely,—

(*a*) the name of the association;

(*b*) the whole of the objects for which the association has been established;

(*c*) the whole of the purposes for which the general funds of the association shall be applicable, all of which purposes shall be purposes to which such funds are lawfully applicable under this Act;

(*d*) the maintenance of a list of the members of the association and adequate facilities for the inspection thereof by the officers and members of the association;

(*e*) the admission of ordinary members who shall be members actually engaged or employed in the industrial

undertaking concerned and also the condition for the admission of honorary members as officers; provided that not more than two such members shall be so admitted into any association and provided further that no one shall be an honorary member of more than one association at the same time;

(*f*) the conditions under which any member shall be entitled to any benefit assured by the rules and under which any fine or forfeiture may be imposed on the members;

(*g*) the manner in which the rules shall be amended, varied or rescinded;

(*h*) the manner in which the members of the executive and the other officers of the association shall be appointed and removed;

(*i*) the safe custody of the funds of the association, an annual audit in such manner as may be prescribed, of the accounts thereof and adequate facilities for the inspection of the account books by the officers and members of the association;

(*j*) the manner in which the association may be dissolved; and

(*k*) the procedure to be followed before the association can call a strike, including a secret ballot of the members and the minimum votes necessary.

8. The general funds of a Registered Association shall not be spent on any other objects than the following, namely,—

(*a*) the payment of salaries, allowances and expenses to officers of the association;

(*b*) the payment of expenses for the administration of the association, including audit of the accounts of the general funds of the association;

(*c*) the prosecution or defence of any legal proceeding to which the association or any member thereof is a party, when such prosecution or defence is undertaken for the purpose of securing or protecting any rights of the association as such or any rights arising out of the relations of any member with his employer;

(*d*) the conduct of labour disputes on behalf of the association or any member thereof;

(*e*) the compensation of members for loss arising out of labour disputes;

(h) the payment of expenses in connection with the election of representatives of labour provided by statute for the Houses of legislature and local bodies in the State, subject to a maximum of Rs 100 in each case

(f) allowances to members or their dependents on account of death, old age, sickness, accidents or unemployment of such members;

(g) the provision of educational or social benefits for members (including the payment of the expenses of funeral or religious ceremonies for deceased members);

(i) subject to any conditions contained in the notification, any other object notified by the Government in the official Gazette.

Standing orders regarding industrial matters.

9. (1) Within three months after the commencement of the Act, the employer in respect of every industrial undertaking employing not less than 100 ~~workmen~~ employees shall furnish the Commissioner with a statement of standing orders regulating the relations between him and his employees in respect of matters specified in Schedule I of this Act and simultaneously furnish a copy of the same in English and Kannada to the Registered Association of employees in his concern.

(2) The association shall submit to the Commissioner within 15 days of such receipt any points objected to by them as inconsistent with existing practice. The Commissioner shall thereupon hold a summary enquiry on such points, settle the standing orders as found by him and furnish both to the employer and to the association a copy of the standing orders as settled by him.

(3) An appeal shall lie to the Court of Arbitration from the order of settlement of the Standing Orders by the Commissioner, provided that such appeal is preferred within 15 days from the date of the settlement exclusive of the time required for obtaining a copy thereof.

(4) The Commissioner or the Court of Arbitration, as the case may be, shall send a copy of the Standing Orders settled or of the award made under the preceding sub-sections to the Registrar for registering it in a Register of Standing Orders and Agreements.

(5) The Standing Orders settled by the Commissioner under sub-section (2) or the award made by the Court of Arbitration under sub-section (3), as the case may be, shall be determinative of the relations between the employer and his employees in all matters included therein.

change in

10. (1) An employer intending to effect any change in any standing order settled under section 9 or in respect of an industrial matter mentioned in Schedule II shal

give notice of such intention in the prescribed form to the Registered Association. He shall send a copy of such notice to the Commissioner of Labour, the Chief Conciliator, the Registrar, and to such other person as may be prescribed. He shall also affix a copy of such notice at a conspicuous place in the premises where the employees affected by the change are employed for work and at such other place as may be directed by the Chief Conciliator in any case.

Standing orders and other industrial matters to give notice.

(2) A Registered Association desiring a change in any such standing order or in respect of any other industrial matter shall give notice in the form prescribed to the employer and shall also forward a copy of the notice to the Commissioner of Labour, the Chief Conciliator, the Registrar, and to such other person as may be prescribed.

(3) The Commissioner shall ascertain within 15 days after the receipt of such notice whether the proposed change is mutually agreed to between the employer and the Association and if so agreed to, send a copy relating to the change to the Registrar for registering it in the Register of Agreements and inform both parties. In case of disagreement within 15 days, he shall report to the Chief Conciliator for initiating conciliation proceedings under this Act.

not being reached

(4) The employer and the Registered Association shall maintain records of all negotiations with each other and shall produce such records when called upon to do so during any subsequent proceedings under the Act.

Conciliators and Board of Conciliation.

11. (1) The Registrar of Associations shall be *ex-officio* Chief Conciliator in Mysore.

(2) The Government may, on the recommendation of the Chief Conciliator, appoint a Special Conciliator in respect of any dispute.

(3) During the pendency of any proceedings before the Conciliator under the foregoing provisions, the Government may, and if both the parties agree either prior to the commencement of such proceedings or after the failure of the Conciliator to bring about a settlement shall refer the dispute to a Board of Conciliation consisting of three independent persons.

Conciliation proceedings.

12. (1) The Conciliator or the Board shall conclude the enquiry within one month of the initiation of conciliation proceedings or the appointment of the Board, as the case may be.

(2) If a settlement be reached in the conciliation proceedings, the Conciliator or the Chairman of the Board shall send a report of proceedings with a copy of the memorandum of settlement to the Registrar and to both the parties.

(3) The Registrar shall record the settlement in the Register of Agreements.

(4) Where the parties do not come to a settlement, the Conciliator or the Board shall submit a report to Government through the Chief Conciliator and such report shall be published in the official Gazette not later than the second issue after the date of receipt of the report.

Court of Arbitration and proceedings in Arbitration.

13. (1) The Government may constitute a Court of Arbitration ~~for determining industrial disputes.~~

(2) At any time during the progress of the conciliation proceedings, the employer and the Association concerned may jointly apply to the Chief Conciliator for referring the point in dispute to arbitration, forthwith.

(3) The Chief Conciliator shall thereupon submit the application to the Government who shall refer it to the Court of Arbitration or to the Sole Arbitrator, if one is mentioned in the application.

(4) The Court of Arbitration or the Sole Arbitrato shall certify its or his award to the Registrar and to the parties in dispute.

(5) The Registrar shall record the Award in the Register of Agreements.

(6) The Award shall be binding on the parties to the dispute and on their successors and assigns and shall not be called in question in any civil or criminal Court or other judicial proceedings.

14. No notice of change under section 10 shall be given in respect of a matter settled—

(*a*) by an agreement or settlement within six months from its registration, and

(*b*) by an award, within a year from its registration, provided that by consent of both parties an agreement to modify any such agreement, settlement or award, may be registered at any time.

Nature of proceedings before Conciliator and Court.

15. All proceedings before the Commissioner of Labour or a Conciliator or a Board or a Sole Arbitrator shall be confidential Proceedings before a Court of

Arbitration shall be public except where the Court directs its sittings to be *in camera*.

16. The Commissioner, an Assistant Commissioner, a Conciliator, every member of the Board of Conciliation and Sole Arbitrator and every member of the Court of Arbitration shall be deemed to be a public servant within the meaning of section 21, Indian Penal Code, as in force in Mysore.

Commissioner, Conciliator and member of Board to be public servants.

17. Any person who wilfully refuses entry to the Commissioner to any place which he is entitled to enter under section 4 or who fails to produce any document which he is required to produce, or who fails to comply with any requisition or order issued to him by or under the provisions of this Act shall, on conviction, be punishable with fine which may extend to rupees one hundred and in respect of a continuing failure, with an additional fine of rupees twenty-five per day for every day during which such failure continues after the last conviction for such failure.

Penalty for obstructing any person from carrying out his duties under this Act.

18. (1) In respect of every proceeding before them, the Conciliator, the Board of Conciliation, the Sole Arbitrator and the Court of Arbitration shall have the same powers as are vested in Courts under the Code of Civil Procedure, 1911, in respect of the following matters when trying a suit :—

Procedure before the Conciliator and Court.

(*a*) summoning and enforcing the attendance of any person and examining him on oath ;

(*b*) compelling the production of documents ;

(*c*) issuing commissions for the examination of witnesses ;

(*d*) proof of facts by affidavits ;

and shall have such further powers as may be prescribed.

(2) (*a*) Every proceeding before a Court of Arbitration shall be deemed to be a judicial proceeding within the meaning of sections 192, 193 and 228 of the Indian Penal Code, as in force in Mysore, and within the meaning of the Contempt of Courts Act, 1930.

(*b*) Parties before the Court of Arbitration may be represented by counsel.

(3) There shall be no award of costs in any proceeding under this Act.

Information furnished by a party to be treated as confidential.

19. (1) If a party to an industrial dispute giving any information or producing any document in any proceeding under this Act makes a request in writing to the Conciliator, the Board, the Sole Arbitrator or the Court as the case may be, that such information or the contents of such document may be treated as confidential, the Conciliator, the Board or the Sole Arbitrator or the Court as the case may be, shall direct that such information or document be treated as confidential.

(2) The Conciliator or any member of the Board or Sole Arbitrator or Court or any person present at, or concerned in any proceeding, under this Act shall not disclose any information or the contents of any document in respect of which a request has been made under sub-section (1) without the consent in writing of the party making the request under the said sub-section.

(3) Nothing in this section shall apply to disclosure of any information or the contents of any document for the purpose of a prosecution under this Act or under any other law for the time being in force.

Penalty for disclosing confidential information.

20. If a Conciliator or a member of a Board or Sole Arbitrator or Court or any person present at or concerned in any proceeding under this Act wilfully discloses any information or the contents of any document in contravention of this Act, he shall, on a complaint made by the party who gave the information or produced the document in such proceeding and on conviction, be punishable with fine which may extend to rupees one thousand.

Illegal changes.

21. (1) No employer shall make any change in any industrial matter in regard to which a standing order has been settled under section 9 or which is mentioned in Schedule II before the agreement referred in sub-section (3) of section 10 is arrived at or where no such agreement is arrived at before the conciliation proceedings are completed or in cases where the dispute is referred to arbitration, before the award has been given.

(2) No employer shall make any such change in contravention of the terms of a Registered Agreement, a settlement or an award.

(3) Any change made in contravention of the provisions of sub-section (1) or (2) shall be illegal.

Penalty for illegal changes.

22. (1) Any employer who makes any illegal change shall, on conviction, be punishable with fine which may extend to rupees ~~five thousand~~ and in the case of a conti

Two thousand and five hundred

nuing offence with an additional fine which may extend to rupees two hundred per day for every day during which the offence continues after his last conviction for such offence.

(2) An employer who acts in contravention of a standing order settled under section 9 shall, on conviction, be punishable with fine which may extend to rupees one hundred and in the case of continuing contravention of such standing order, with an additional fine which may extend to rupees twenty-five per day for every day during which such contravention continues after his last conviction for such contravention.

Employer not to dismiss, reduce or punish an employee for being connected with an association.

23. (1) No employer shall dismiss or reduce any employee or punish him in any other manner by reason of the circumstance that the employee—

(*a*) is an officer or member of a Registered Association or of an association which has applied for being registered under this Act ; or

(*b*) is entitled to the benefit of a Registered Agreement, settlement or award ; or

(*c*) has appeared or intends to appear as a witness or has given evidence or intends to give evidence in a proceeding under this Act ; or

(*d*) has gone on or joined a strike which is not illegal under the provisions of this Act.

(2) Whoever contravenes the provisions of sub-section (1) shall, on conviction, be punishable with fine which may extend to rupees one thousand.

(3) Where the offence is one of wrongful dismissal, the Court shall direct that the employer shall pay the dismissed employee wages for the period he is kept out of employment, based on his average wages for the twelve months preceding the date of dismissal.

(4) Where the offence is one of wrongful reduction or other punishment, the Court trying any offence under this section may direct that out of the fine recovered, such amount as it deems fit shall be paid to the employee concerned as compensation.

Illegal strikes and lock-outs

24. A strike or a lock-out shall be illegal which has any object other than or in addition to the furtherance of an industrial dispute within the industrial undertaking in which the strikers or employer locking-out are engaged.

Illegal strikes.

25. (1) A strike shall be illegal if it is commenced or continued—

(c) ~~(a)~~ without giving notice in accordance with the provisions of section 10, and before the initiation of conciliation proceedings where an agreement is not arrived at;

(b) only for the reason that the employer has not carried out the provisions of any standing order or has made an illegal change;

(d) ~~(c)~~ in cases where conciliation proceedings in regard to the industrial dispute to which the e relates have commenced, before the iry of 14 days after the publication of the report and

(e) ~~(d)~~ in cases where the dispute has been referred to arbitration, before an award has been given;

(a) ~~(e)~~ in contravention of the terms of a Registered Agreement, settlement or award.

(2) In cases where conciliation proceedings in regard to any industrial dispute have been completed, a strike relating to such dispute shall be illegal if it is commenced at any time after the expiry of two months after the publication of the report.

Illegal lock-outs.

26. (1) A lock-out shall be illegal if it is declared, commenced or continued—

(b) ~~(a)~~ without giving notice in accordance with the provisions of section 10, and before the initiation of conciliation proceedings where an agreement is not arrived at;

(c) ~~(b)~~ in cases where conciliation proceedings in regard to the industrial dispute to which the lock-out relates have commenced before the expiry of 14 days after publication of the report;

(d) ~~(c)~~ in cases where the dispute has been referred to arbitration, before an award has been given;

(a) ~~(d)~~ in contravention of the terms of a Registered Agreement, settlement or award.

(2) In cases where conciliation proceedings in regard to any industrial dispute have been completed, a lock-out relating to such dispute shall be illegal if it is commenced at any time after the expiry of two months after the publication of the report.

New Clause 26A

OFFICE OF THE MINISTER FOR LAW

In Secns 27 & 28 add

(2) In a prosn under this Section it shall be a valid defence that the ~~declaration~~ lock out ~~referred to~~ was not ~~in accordance with the Act~~ illegal under the Act

Carried 28 by votes

Strike

27. Any employer who has declared a lock-out ~~and continues it after it~~ which has been declared ~~by the Registrar~~ to be illegal shall, on conviction, be punishable with fine which may extend to rupees two thousand and five hundred and shall, in addition, be directed by the Court to pay the employees kept out of employment by such lock-out, wages for the period they are so kept out, based on the average earned by each employee during the twelve months preceding the commencement of the lock-out.

Penalty for declaring an illegal lock-out.

28. Any employee who has gone on strike ~~and continues to be on strike or~~ or who joins a strike, ~~after it~~ which has been declared ~~by the Registrar~~ to be illegal shall, on conviction, be punishable with imprisonment of either description for a term which may extend to 15 days or fine which may extend to rupees twenty-five and in the case of a continuing offence with an additional fine which may extend to rupee one per day for every day during which the offence continues after his last conviction for such offence subject to a maximum of rupees fifty.

Penalty for declaring or commencing an illegal strike.

29. (*a*) If any person instigates or incites others to take part in, or otherwise acts in furtherance of, a strike or lock-out which is declared to be illegal by the Registrar, whether such strike or lock-out has commenced or not, he shall, on conviction, be punishable with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Penalty for instigation, etc., of illegal strikes and lock-outs.

Explanation.—For the purpose of this section, a person who contributes, collects or solicits funds for the purpose of any such strike or lock-out shall be deemed to act in furtherance thereof.

(*b*) Any person who instigates or incites an employer or an employee to secure relief in respect of an industrial matter, otherwise than through the provisions of this Act shall, on conviction, be punishable with imprisonment of either description for a term which may extend to three months or with fine or with both.

30. Where anything is required to be done by any association by or under any provision of this Act, the person authorised in this behalf by the executive of the association or if no person is so authorised every member of the executive of the association shall be bound to do the same and shall be personally liable if default is made in the doing of any such thing.

Liability of the executive of an association.

Explanation.—For the purpose of this section, executive of an association means the body by whatever name called to which the management of the affairs of the association is entrusted.

Certain Acts not to apply to Associations.

31. The following Acts, namely,-

(*a*) The Societies Registration Act, 1904,
(*b*) The Mysore Co-operative Societies Act, 1918,
(*c*) The Mysore Companies Act, 1938, and
(*d*) The Insurance Act, 1939,

shall not apply to any Registered Association, and the registration of any association of industrial employees under any such Act shall be void.

32. No association of employees other than those registered under this Act shall be recognised or permitted to be represented in any proceedings under this Act.

Persons acting in good faith not to be sued.

33. No suit or proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Immunity from civil suit in certain cases.

34. (1) No suit or other legal proceeding shall be maintainable in any civil Court against any Registered Association or any officer or member thereof in respect of any act done in contemplation or furtherance of an industrial dispute to which a member of the association is a party on the ground only that such act induces some other person to break a contract of employment, or that it is in interference with the industry, business or employment of some other person or with the right of some other person to dispose of his capital or of his labour as he wills.

(2) A Registered Association shall not be liable in any suit or other legal proceeding in any civil Court in respect of any tortuous act done in contemplation or furtherance of an industrial dispute by an agent of the association if it is proved that such person acted without the knowledge of, or contrary to express instructions given by the executive of the association.

Enforcement of agreements.

35. Notwithstanding anything contained in any other law for the time being in force, an agreement between the members of a Registered Association shall not be void or voidable merely by reason of the fact that any of the objects of the agreement are in restraint of trade :

Provided that nothing in this section shall enable any civil Court to entertain any legal proceeding instituted for

the express purpose of enforcing or recovering damages for the breach of any agreement concerning the conditions on which any member of an association shall or shall not work, or be employed.

36. No Court inferior to that of a Magistrate of the First Class shall try offences under this Act. Jurisdiction of

37. (1) The Government may make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may be made for all or any of the following matters, namely,—

(*a*) the form in which the certificate of registration may be issued;

(*b*) the constitution of a Board or Court and the qualifications for a Special Conciliator, or member of a Board or of the Court;

(*c*) the fee to be paid on applications under this Act;

(*d*) the manner in which the total number of employees is to be computed for the purposes of this Act;

(*e*) the other powers of the several authorities under section 18;

(*f*) the manner in which standing orders may be submitted under section 9;

(*g*) the form in which notice of change is to be given and the persons to whom copies of such notice are to be sent under section 10;

(*h*) the form in which a statement of the case is to be forwarded to a Special Conciliator, Board or Court or Sole Arbitrator;

(*i*) the procedure to be followed by the several authorities under this Act;

(*j*) the registers to be maintained by the employer, and the returns and the information to be periodically furnished by him to the Commissioner of Labour or to other authorities for the purposes of this Act;

(*k*) the officers to be deemed as employers in respect of industrial undertakings owned by the Government; and

(*l*) the form in which the memorandum of agreement, settlement or the award shall be drawn up and the manner in which it shall be recorded and published by the Registrar.

(3) The Government may also prescribe a fine not exceeding rupees one hundred for a breach of any such rule.

(4) The rules made under this section shall be subject to the condition of previous publication in the official Gazette.

Repeal and Savings.

38. The Mysore Labour (Emergency) Act, 1941, is hereby repealed. But any rules made, anything done and any action taken in exercise of any power conferred by or under the said Emergency Act shall be deemed to have been made, done or taken, in exercise of powers conferred by or under this Act as if this Act had commenced on the 26th day of August 1941.

SCHEDULE I.

SECTION 9.

1. Classification of employees, *e.g.*, permanent temporary, apprentices, probationers, etc.
2. Manner of notification to employees of periods and hours of work, holidays, pay days and wage rates.
3. Shift working.
4. Attendance and late coming.
5. Leave and holidays, conditions, procedure and authority to grant.
6. Liability to search and entry into premises by certain gates.
7. Temporary stoppages of work and rights and liabilities of employers and employees arising therefrom.
8. Termination of employment. Notices to be given by employer and employee.
9. Punishment for misconduct and the acts or omissions which constitute misconduct.
10. Means of redress for employees against unfair treatment or wrongful exaction on the part of the employer or his agent or servant.
11. Rules of discipline.

SCHEDULE II.

SECTION 10.

1. Reduction intended to be of permanent or semi-permanent character in the number of persons employed or to be employed not due to *force majeure*.

2. Introduction of rationalisation, efficiency or other new systems of work.

3. Starting, alteration or discontinuance of shift working, otherwise than in accordance with the standing orders.

4. Withdrawal of any customary concession or privilege or change in usage.

5. Wages and total weekly hours of work.

:inted by the Superintendent at the Government Press, Bangalore

THE BANGALORE WOOLLEN, COTTON & SILK MILLS Co. Ld.

TELEGRAPHIC ADDRESS:
WOOLLEN BANGALORE.

TELEPHONE No. 2037.

VICTORY

BANGALORE CITY.

BANGALORE, 6th December, 1941

Dear Mr. Ramanathan,

MYSORE LABOUR (EMERGENCY) ACT 1941.

I enclose a Note on the amendments of the Mysore Labour (Emergency) Act which will be moved in the Council when it meets on 15th December. I would be grateful of an opportunity to discuss these amendments with you before the meeting of the Council.

Yours sincerely,

Rajasevaprasakta
A.V.Ramanathan B.A.,
Minister for Law,
Govt. of Mysore,
Bangalore.

AMENDMENTS TO BE MOVED

MYSORE LABOUR (EMERGENCY ACT 1941.

SECTION 22. That the following sub-section be added, namely

"(3) Any registered Association intending to prefer a complaint under this Section shall first obtain a certificate from the Registrar that there is a prima facie case on which to found such complaint".

Section 22 (1) & (2) provide penalties for employers who make illegal changes or act in contravention of Standing Orders settled under Section 9. The penalties are severe. The Act does not say who may prefer a complaint, but it must be presumed that an aggrieved party, such as the Registered Association, has the right to do so. There is nothing to prevent an Association, which has decided to make as much trouble as possible for the employer, from setting the penal law in motion whenever it chooses to allege a contravention of Standing Orders. The employer may thus be put to the expense of frequently defending himself in court on frivolous charges. Such a state of affairs it is to be hoped would not arise: nevertheless, if it should do, it would prove a dangerous source of irritation and would destroy any possibility of harmonious relations between the Employer and the Association which the Act is designed to promote. It is not intended by this amendment that the Registrar should himself decide the issue before issuing a certificate. All that would be necessary for him to do is to certify that there is a case for adjudication.

SECTION 23. That the following words shall be added after "kept out of employment", namely, "up to the time of pronouncing judgement".

On the wording of this sub-section as it now stands, an employer is liable to pay a dismissed employee wages for the period he is "kept out of employment". The implication of this wording is very wide. It may well relieve an employee wrongfully

discharged under this section of ever trying to find another job. If, for example, a man were employed in a business or process which is the only one of its kind within a reasonable distance of the man's home, it could mean that the employee would be entitled to receive wages for the rest of his life. In a case of wrongful dismissal in a Civil Court, it is the duty of the employee to mitigate damages by doing his best to get other employment as soon as he can. It may be said than an employer who is foolish enough to dismiss an employee so that he comes within the mischief of Section 23, deserves all that he gets; but the case may not be a simple one. It may, under sub-section (d), depend upon the legality or illegality of the strike. An employer might well find himself unwittingly in trouble by dismissing an employee in connection with a strike which he had every ground to expect to be declared illegal but which was held to be legal. The amendment seems to limit the employers liability up to the time that a case for wrongful dismissal is disposed of in court. Even that goes considerably further than civil law where an employee who won a suit against his employer for wrongful dismissal would be entitled only to the emoluments he would have received if the dismissal had been in accordance with the law. That amount is usually one months wages in lieu of notice. Under the proposed amendment the employer is liable to pay emoluments up to the date of the courts finding, which is likely to be a very much longer period, and in addition is liable to the heavy fine of Rs.1000 under sub-section 2. The amendment seeks to limit the liability of an employer convicted under this section to an amount to be determined by the court, rather than to leave his liability undetermined, which is contrary to all accepted principles of justice.

SECTION 25. That the following be substituted for Section 25, namely,

25. Every strike shall be illegal which is commenced or continued.

1. (a) in contravention of the terms of a registered agreement, settlement or award;

(b) only for the reason that the employer has not carried out the provisions of any standing order or has made an illegal change.

2. (a) without giving notice in accordance with the provisions of section 10 and where an agreement is not arrived at before the initiation of conciliation proceedings;

(b) in cases where conciliation proceedings in regard to the industrial dispute to which the strike relates have commenced, before the expiry of 14 days and after the expiry of two months from the publication of the report;

(c) in cases where the dispute has been referred to arbitration, before an award has been given.

As at present drafted, Section 25 is difficult to interpret. Subsection 1 (a), (c) & (d) and Section 25 (2) make the time factor the test of illegality. On the other hand, Section 25 (1) (b) and (e) define certain fundamental grounds of illegality entirely unconnected with time. It is difficult to understand why Section 25 (1) (b) is sandwiched between two sub-clauses in which the time factor is the criterion, and the illegality specified in (b) cannot be whittled away and become legal by any implication arising from (a), (c) or (d), nor is this the intention of the Act. In the proposed amendment, which is uncontroversial, all possibility of misunderstanding or misconstruction is avoided. Sub-section 1 (a) and (b) deal with fundamental grounds of illegality. Sub-section 2 (a), (b) and (c) deal with the time factor governing illegality. Only one further point of explanation is necessary. In the amendment now moved, 2 (b) defines the time limit within which a strike may be declared lawful. This period begins 14 days after the publication of the report. It is clear from Section 12 (4), that when conciliation fails, conciliation terminates with the publication of the report. The amendment thus overcomes a possible ambiguity in Section 25 (2) as now drafted, where a reference is made to conciliation being <u>completed</u> as well as to the <u>publication</u> of the report.

There is, in fact, no distinction contemplated between the completion of conciliation proceedings and the publication of the report, and the amendment moved makes this quite clear.

SECTIONS 27 & 28. In both sections move an amendment, namely, after the word "shall" in line 3, add the words "if the Court finds that such declaration is correct and in accordance with the Act". Under both these sections, the Registrar has the power to declare a lock out or strike illegal. The sections themselves are confined to prescribing a penalty, and as they now stand it will not be open to the Court, which for the purposes of these sections is only an instrument of punishment, to go into the rights or wrongs of the Registrar's decision. Very important questions of fact or interpretation may rest on such a decision, and in view of the exceedingly heavy penalties to be imposed on both employers and strikers for an illegal act, it is both expedient and just that a Court of Law, with power to call for records, examine witnesses and hear evidence, should provide the necessary check on what, as the Act now stands, amounts to a completely arbitrary declaration.

NEW SECTION. An amendment in the form of a new section is required, and it can conveniently be inserted after Section 28, with consequent renumbering of the later sections. The amendment to be moved therefore is as follows :-

1. That a new section numbered Section 29 shall follow section 28 namely, The Registrar shall on the written request of an employer or a registered Association declare within 72 hours a strike or lock-out to be legal or illegal as the case may be.

2. That all later sections be renumbered accordingly.

The present Act fixes no time limit within which the Registrar must make a declaration of legality or illegality of a strike or lock-out. It is a matter of the utmost importance for all concerned in a labour dispute to know within the

shortest possible space of time exactly how they stand in relation to the Act. The penalties imposed for an unlawful action on the part of either employer or employee are heavy. Although under Section 37(1) the Government has power to prescribe rules in respect of the procedure to be followed by the several authorities under the Act, the Government has not done so. The duties of the Registrar in this and his other functions under the Act should be defined, but this amendment deals with a matter of sufficient importance to justify it appearing in the Act itself. The time limit of 72 hours will allow the Registrar more than sufficient time to reach any part of the State and to ascertain the facts.

The circumstances under which strikes and lock-outs are illegal are to be ascertained with reference to Sections 25 and 26. Under Section 10(4) the employers and the Registered Association have to maintain records of all negotiations with each other which they are bound to produce when called upon to do so. The declaration, therefore, which the Registrar is required to make can be promulgated without difficulty within the time limit provided in the amendment now moved.

THE BANGALORE WOOLLEN, COTTON & SILK MILLS CO. LD.

TELEGRAPHIC ADDRESS:
WOOLLEN BANGALORE.

TELEPHONE No. 2037.

VICTORY

Please see me

BANGALORE CITY, 6th December, 1941.

Dy Sec (Legislative)

SECRETARY
6. DEC. 1941
Govt. of Mysore

Dear Mr. Ramanathan,

MYSORE LABOUR (EMERGENCY) ACT
1941.

I enclose a Note on the amendments of the Mysore Labour (Emergency) Act which will be moved in the Council when it meets on 15th December. I would be grateful of an opportunity to discuss these amendments with you before the meeting of the Council.

Yours sincerely,

Rajasevaprasakta
A.V. Ramanathan M.A.,
Minister for Law,
Govt. of Mysore,
Bangalore.

Copy to.-
The Secretary to Govt.
Development Department,
Bangalore.

[illegible] to be [illegible]

INDUSTRIAL LABOUR (AMENDMENT) ACT 1961.

22. That the following sub-section be added, namely

3) Any registered Association intending to prefer a complaint under this Section shall first obtain a certificate from the Registrar that there is a prima facie case on which to found such complaint".

Section 22 (1) & (2) provide penalties for employers who make illegal changes or act in contravention of Standing Orders settled under Section 9. The penalties are severe. The Act does not say who may prefer a complaint, but it must be presumed that an aggrieved party, such as the Registered Association, has the right to do so. There is nothing to prevent an Association, which has decided to make as much trouble as possible for the employer, from setting the penal law in motion whenever it chooses to allege a contravention of Standing Orders. The employer may thus be put to the expense of frequently defending himself in court on frivolous charges. Such a state of affairs it is to be hoped would not arise: nevertheless, if it should do, it would prove a dangerous source of irritation and would destroy any possibility of harmonious relations between the Employer and the Association which the Act is designed to promote. It is not intended by this amendment that the Registrar should himself decide the issue before issuing a certificate. All that would be necessary for him to do is to certify that there is a case for adjudication.

23. That the following words shall be added after "kept out of employment", namely, "up to the time of pronouncing judgement".

On the wording of this sub-section as it now stands, an employer is liable to pay a dismissed employee wages for the period he is "kept out of employment". The implication of this wording is very wide. It may well relieve an employee wrongfully

discharged under this section of ever trying to find another job. If, for example, a man were employed in a business or process which is the only one of its kind within a reasonable distance of the man's home, it could mean that the employee would be entitled to receive wages for the rest of his life. In a case of wrongful dismissal in a Civil Court, it is the duty of the employee to mitigate damages by doing his best to get other employment as soon as he can. It may be said than an employer who is foolish enough to dismiss an employee so that he comes within the mischief of Section 23, deserves all that he gets; but the case may not be a simple one. It may, under sub-section (d), depend upon the legality or illegality of the strike. An employer might well find himself unwittingly in trouble by dismissing an employee in connectior with a strike which he had every ground to expect to be declared illegal but which was held to be legal. The amendm seems to limit the employers liability up to the time that case for wrongful dismissal is disposed of in court. Even that goes considerably further than civil law where an empl who won a suit against his employer for wrongful dismissal would be entitled only to the emoluments he would have rece if the dismissal had been in accordance with the law. Tha amount is usually one months wages in lieu of notice. Unde the proposed amendment the employer is liable to pay emolun up to the date of the courts finding, which is likely to b a very much longer period, and in addition is liable to th heavy fine of Rs.1000 under sub-section 2. The amendment to limit the liability of an employer convicted under thi section to an amount to be determined by the court, rath than to leave his liability undetermined, which is contr to all accepted principles of justice.

SECTION 25. That the following be substituted for Section 25, namely,

25. Every strike shall be illegal which is commenced or continued.

1. (a) in contravention of the terms of a registered agreement, settlement or award;

(b) only for the reason that the employer has not carried out the provisions of any standing order or has made an illegal change.

(a) without giving notice in accordance with the provisions of section 10 and where an agreement is not arrived at before the initiation of conciliation proceedings;

(b) in cases where conciliation proceedings in regard to the industrial dispute to which the strike relates have commenced, before the expiry of 14 days and after the expiry of two months from the publication of the report;

(c) in cases where the dispute has been referred to arbitration, before an award has been given.

As at present drafted, Section 25 is difficult to interpret. Subsection 1 (a), (c) & (d) and Section 25 (2) make the time factor the test of illegality. On the other hand, Section 25 (1) (b) and (c) define certain fundamental grounds of illegality entirely unconnected with time. It is difficult to understand why Section 25 (1) (b) is sandwiched between two sub-clauses in which the time factor is the criterion, and the illegality specified in (b) cannot be whittled away and become legal by any implication arising from (a), (c) or (d), nor is this the intention of the Act. In the proposed amendment, which is uncontroversial, all possibility of misunderstanding or misconstruction is avoided. Sub-section 1 (a) and (b) deal with fundamental grounds of illegality. Sub-section 2 (a), (b) and (c) deal with the time factor governing illegality. Only one further point of explanation is necessary. In the amendment now moved, 2 (b) defines the time limit within which a strike may be declared lawful. This period begins 14 days after the publication of the report. It is clear from Section 12 (4), that when conciliation fails, conciliation terminates with the publication of the report. The amendment thus overcomes a possible ambiguity in Section 25 (2) as now drafted, where a reference is made to conciliation being <u>completed</u> as well as to the <u>publication</u> of the report.

There is, in fact, no distinction contemplated between the completion of conciliation proceedings and the publication of the report, and the amendment moved makes this quite clear.

SECTIONS 27 & 28. In both sections move an amendment, namely, after the word "shall" in line 3, add the words "if the Court finds that such declaration is correct and in accordance with the Act". Under both these sections, the Registrar has the power to declare a lock out or strike illegal. The sections themselves are confined to prescribing a penalty, and as they now stand it will not be open to the Court, which for the purposes of these sections is only an instrument of punishment, to go into the rights or wrongs of the Registrar's decision. Very important questions of fact or interpretation may rest on such a decision, and in view of the exceedingly heavy penalties to be imposed on both employers and strikers for an illegal act, it is both expedient and just that a Court of Law, with power to call for records, examine witnesses and hear evidence, should provide the necessary check on what, as the Act now stands, amounts to a completely arbitrary declaration.

NEW SECTION. An amendment in the form of a new section is required, and it can conveniently be inserted after Section 28, with consequent renumbering of the later sections. The amendment to be moved therefore is as follows :-

1. That a new section numbered Section 29 shall follow section 28 namely, The Registrar shall on the written request of an employer or a registered Association declare within 72 hours a strike or lock-out to be legal or illegal as the case may be.

2. That all later sections be renumbered accordingly.

The present Act fixes no time limit within which the Registrar must make a declaration of legality or illegality of a strike or lock-out. It is a matter of the utmost importance for all concerned in a labour dispute to know within the

shortest possible space of time exactly how they stand in relation to the Act. The penalties imposed for an unlawful action on the part of either employer or employee are heavy. Although under Section 37(1) the Government has power to prescribe rules in respect of the procedure to be followed by the several authorities under the Act, the Government has not done so. The duties of the Registrar in this and his other functions under the Act should be defined, but this amendment deals with a matter of sufficient importance to justify it appearing in the Act itself. The time limit of 72 hours will allow the Registrar more than sufficient time to reach any part of the State and to ascertain the facts.

The circumstances under which strikes and lock-outs are illegal are to be ascertained with reference to Sections 25 and 26. Under Section 10(4) the employers and the Registered Association have to maintain records of all negotiations with each other which they are bound to produce when called upon to do so. The declaration, therefore, which the Registrar is required to make can be promulgated without difficulty within the time limit provided in the amendment now moved.

THE BANGALORE WOOLLEN, COTTON & SILK MILLS CO. LD.

TELEGRAPHIC ADDRESS:
WOOLLEN BANGALORE.

TELEPHONE No. 2037.

VICTORY

BANGALORE CITY. 6th December, 1941.

OFFICE OF THE SECRETARY
1941
AND
COUNCIL

Dear Mr. Ramanathan,

MYSORE LABOUR (EMERGENCY) ACT 1941.

I enclose a Note on the amendments of the Mysore Labour (Emergency) Act which will be moved in the Council when it meets on 15th December. I would be grateful of an opportunity to discuss these amendments with you before the meeting of the Council.

Yours sincerely,

SECY. LAW DEPT.
39
6 DEC. 1941
GOVT. OF MYSORE

Rajasevaprasakta
A.V.Ramanathan M.A.,
Minister for Law,
Govt. of Mysore,
Bangalore.

Copy to.-
The Secretary to Govt.
Law Department,
Bangalore.

AMENDMENTS TO BE MOVED

MYSORE LABOUR (EMERGENCY ACT 1941.

SECTION 22. That the following sub-section be added, namely

"(3) Any registered Association intending to prefer a complaint under this Section shall first obtain a certificate from the Registrar that there is a prima facie case on which to found such complaint".

Section 22 (1) & (2) provide penalties for employers who make illegal changes or act in contravention of Standing Orders settled under Section 9. The penalties are severe. The Act does not say who may prefer a complaint, but it must be presumed that an aggrieved party, such as the Registered Association, has the right to do so. There is nothing to prevent an Association, which has decided to make as much trouble as possible for the employer, from setting the penal law in motion whenever it chooses to allege a contravention of Standing Orders. The employer may thus be put to the expense of frequently defending himself in court on frivolous charges. Such a state of affairs it is to be hoped would not arise: nevertheless, if it should do, it would prove a dangerous source of irritation and would destroy any possibility of harmonious relations between the Employer and the Association which the Act is designed to promote. It is not intended by this amendment that the Registrar should himself decide the issue before issuing a certificate. All that would be necessary for him to do is to certify that there is a case for adjudication.

SECTION 23. That the following words shall be added after "kept out of employment", namely, "up to the time of pronouncing judgement"

On the wording of this sub-section as it now stands, an employer is liable to pay a dismissed employee wages for the period he is "kept out of employment". The implication of this wording is very wide. It may well relieve an employee wrongfully

discharged under this section of over trying to find another job. If, for example, a man were employed in a business or process which is the only one of its kind within a reasonable distance of the man's home, it could mean that the employee would be entitled to receive wages for the rest of his life. In a case of wrongful dismissal in a Civil Court, it is the duty of the employee to mitigate damages by doing his best to get other employment as soon as he can. It may be said then an employer who is foolish enough to dismiss an employee so that he comes within the mischief of Section 23, deserves all that he gets; but the case may not be a simple one. It may, under sub-section (d), depend upon the legality or illegality of the strike. An employer might well find himself unwittingly in trouble by dismissing an employee in connection with a strike which he had every ground to expect to be declared illegal but which was held to be legal. The amendment seems to limit the employers liability up to the time that a case for wrongful dismissal is disposed of in court. Even that goes considerably further than civil law where an employee who won a suit against his employer for wrongful dismissal would be entitled only to the emoluments he would have received if the dismissal had been in accordance with the law. That amount is usually one months wages in lieu of notice. Under the proposed amendment the employer is liable to pay emoluments up to the date of the courts finding, which is likely to be a very much longer period, and in addition is liable to the heavy fine of $.1000 under sub-section 2. The amendment seeks to limit the liability of an employer convicted under this section to an amount to be determined by the court, rather than to leave his liability undetermined, which is contrary to all accepted principles of justice.

Clause 10. 23. That the following be substituted for section 23, namely,

23. Every strike shall be illegal which is commenced or continued.

1. (a) In contravention of the terms of a registered agreement, settlement or award;

(b) only for the reason that the employer has not carried out the provisions of any standing order or has made an illegal change.

2. (a) without giving notice in accordance with the provisions of section 10 and where an agreement is not arrived at before the initiation of conciliation proceedings;

(b) in cases where conciliation proceedings in regard to the industrial dispute to which the strike relates have commenced, before the expiry of 14 days and after the expiry of two months from the publication of the report;

(c) in cases where the dispute has been referred to arbitration, before an award has been given.

As at present drafted, Section 25 is difficult to interpret. Subsection 1 (a), (c) & (d) and Section 25 (2) make the time factor the test of illegality. On the other hand, Section 25 (1) (b) and (e) define certain fundamental grounds of illegality entirely unconnected with time. It is difficult to understand why Section 25 (1) (b) is sandwiched between two sub-clauses in which the time factor is the criterion, and the illegality specified in (b) cannot be whittled away and become legal by any implication arising from (a), (c) or (d), nor is this the intention of the Act. In the proposed amendment, which is uncontroversial, all possibility of misunderstanding or misconstruction is avoided. Sub-section 1 (a) and (b) deal with fundamental grounds of illegality. Sub-section 2 (a), (b) and (c) deal with the time factor governing illegality. Only one further point of explanation is necessary. In the amendment now moved, 2 (b) defines the time limit within which a strike may be declared lawful. This period begins 14 days after the publication of the report. It is clear from Section 12 (4), that when conciliation fails, conciliation terminates with the publication of the report. The amendment thus overcomes a possible ambiguity in Section 25 (2) as now drafted, where a reference is made to conciliation being <u>completed</u> as well as to the <u>publication</u> of the report.

There is, in fact, no distinction contemplated between the completion of conciliation proceedings and the publication of the report, and the amendment moved makes this quite clear.

SECTIONS 27 & 28. In both sections move an amendment, namely, after the word "shall" in line 3, add the words "if the Court finds that such declaration is correct and in accordance with the Act". Under both these sections, the Registrar has the power to declare a lock out or strike illegal. The sections themselves are confined to prescribing a penalty, and as they now stand it will not be open to the Court, which for the purposes of these sections is only an instrument of punishment, to go into the rights or wrongs of the Registrar's decision. Very important questions of fact or interpretation may rest on such a decision, and in view of the exceedingly heavy penalties to be imposed on both employers and strikers for an illegal act, it is both expedient and just that a Court of Law, with power to call for records, examine witnesses and hear evidence, should provide the necessary check on that, as the Act now stands, amounts to a completely arbitrary declaration.

NEW SECTION. An amendment in the form of a new section is required, and it can conveniently be inserted after Section 28, with consequent renumbering of the later sections. The amendment to be moved therefore is as follows :-

1. That a new section numbered Section 29 shall follow section 28 namely, The Registrar shall on the written request of an employer or a registered Association declare within 72 hours a strike or lock-out to be legal or illegal as the case may be.

2. That all later sections be renumbered accordingly.

The present Act fixes no time limit within which the Registrar must make a declaration of legality or illegality of a strike or lock-out. It is a matter of the utmost importance for all concerned in a labour dispute to know within the

shortest possible space of time exactly how they stand in relation to the Act. The penalties imposed for an unlawful action on the part of either employer or employee are heavy. Although under Section 37(1) the Government has power to prescribe rules in respect of the procedure to be followed by the several authorities under the Act, the Government has not done so. The duties of the Registrar in this and his other functions under the Act should be defined, but this amendment deals with a matter of sufficient importance to justify it appearing in the Act itself. The time limit of 72 hours will allow the Registrar more than sufficient time to reach any part of the State and to ascertain the facts.

The circumstances under which strikes and lock-outs are illegal are to be ascertained with reference to Sections 25 and 26. Under Section 10(4) the employers and the Registered Association have to maintain records of all negotiations with each other which they are bound to produce when called upon to do so. The declaration, therefore, which the Registrar is required to make can be promulgated without difficulty within the time limit provided in the amendment now moved.

4 89/M

o. 1052

TELEPHONE NO. 2226

HE MYSORE CHAMBER OF COMMERCE

MEMBER OF:

THE FEDERATION OF INDIAN CHAMBERS OF COMMERCE AND INDUSTRY, INDIA

THE FEDERATION OF CHAMBERS OF COMMERCE OF THE BRITISH EMPIRE, LONDON

THE INTERNATIONAL CHAMBER OF COMMERCE INDIAN NATIONAL COMMITTEE, PARIS

THE INDIAN CHAMBER OF COMMERCE IN GREAT BRITAIN, LONDON

Bangalore City, 5th December 1941

OFFICE OF THE SECRETARY
Mr. 2.V.
6 DEC. 1941
REPRESENTATIVE ASSEMBLY AND LEGISLATIVE COUNCIL

From

The Secretary,
Mysore Chamber of Commerce,
Bangalore.

SECY. LAW DEPT. 6 6 DEC. 1941 GOVT OF MYSORE

To

The Secretary to the Government
of His Highness the Maharaja of Mysore,
Law Department, Bangalore.

Sir,

Re: Mysore Labour (Emergency) Act, 1941.

I am desired by the Committee of the Mysore Chamber of Commerce to address you in the above matter and to state that the Committee are of the opinion that certain of the provisions of the Act require to be carefully considered, as it is intended to be placed permanently on the Statute Book.

2. The Emergency Act, dealing as it does, with the proper organisation of labour and the safeguarding of the rights and privileges of labour, is a measure that should be welcomed generally, especially as industrialisation has received an impetus in the State. At the same time, it is felt that that the Act has a wide sweep and may, perhaps, inflict hardships, wholly unexpected, on small and medium-scale employers. What may be applicable to big industrial centres of India, like Bombay, Ahmedabad, etc. may not perhaps be applicable wholesale with advantage, especially to the matter of medium-scale industrialists of Mysore.

3. The heavy fine of Rs.5000/- as laid down in Section 22(of the Emergency Act on Employers in Mysore would, besides hamperin elopment of industries, which cannot be the

TELEPHONE No. 2226

THE MYSORE CHAMBER OF COMMERCE

MEMBER OF:
THE FEDERATION OF INDIAN CHAMBERS OF COMMERCE AND INDUSTRY, INDIA
THE FEDERATION OF CHAMBERS OF COMMERCE OF THE BRITISH EMPIRE, LONDON
THE INTERNATIONAL CHAMBER OF COMMERCE INDIAN NATIONAL COMMITTEE, PARIS
THE INDIAN CHAMBER OF COMMERCE IN GREAT BRITAIN, LONDON

Bangalore City, 5th Decem. *194*1

desire of Government, may in all probability, lead to the closing of small-scale or medium-scale industries altogether. It is quite necessary to remember that almost all employers in the State are carrying on their industries with a capital of a few thousands of rupees. The Committee are strongly of the opinion that irrespective of the circumstances under which fines and penalties are sought to be imposed under the Act, they should be reduced as a general rule to suit the local conditions.

4. "Employee", as defined in Section 3(8) of the Act, seems very wide in its scope. The Act is mainly intended to promote the interests and welfare of labourers on an industrial establishment and it is therefore desirable that the clerical staff of an industry should be excluded from the definition of "Employee".

5. The term "Workmen" appears in Section 9(1) of the Emergency Act but ~~but~~ in its singular form "Workman"; it has not been included under the head of definitions in Section 3 of the Act. The terms "Worker" and "Workman" are used in certain other Mysore Acts and defined therein. As this Act should be self-sufficient and self-explanatory in character, the term "Workman" as defined in any other Act cannot, in any case, be deemed applicable to it as used in this Act. As this word "workmen" has been used in Section 9 of the Act, which is the key Section, as it were, to the whole of this Act, it seems necessary that this word should be defined with a view to avoiding complexities in a court of law, especially as to its applicability itself in regard to certain categories of industrial establishments.

6. Section 22(1) & (2) provide penalties for employers who make illegal changes or act in contravention of Standing Orders settled under Section 9. The penalties, as stated above,

TELEPHONE NO. 2226

THE MYSORE CHAMBER OF COMMERCE

MEMBER OF:
THE FEDERATION OF INDIAN CHAMBERS OF COMMERCE AND INDUSTRY, INDIA
THE FEDERATION OF CHAMBERS OF COMMERCE OF THE BRITISH EMPIRE, LONDON
THE INTERNATIONAL CHAMBER OF COMMERCE INDIAN NATIONAL COMMITTEE, PARIS
THE INDIAN CHAMBER OF COMMERCE IN GREAT BRITAIN, LONDON

Bangalore City, 5th Decem. *194* 1

seems too severe. No mention is made as to who should prefer a complaint under this Section. It is, perhaps, assumed that a complaint will usually be made by the Registered Association. It cannot always be taken for granted that the Association will prefer a complaint against the employer on solid and reasonable grounds. There is room for expecting complaints being made by the Association without proper reasons, especially in the circumstances envisaged by the Act under which there is provision in the Rules framed for the appointment of outsiders on the Committees of the Labour Associations and these outsiders are likely themselves to be connected with political bodies. Strikes and lock-outs may be the result of no wrong committed by the employer. Lodging a complaint in a court of law, under the circumstances, would not only mean meeting a heavy expenditure on the part of our employer but also adversely affect him and his reputation and may even break his industry to pieces. To prevent such undesirable results, the Committee suggest that a Certificate should be obtained by the agrieved party before lodging a complaint in a court of law, from the Registrar of Associations, after proving that there is a prima facie case for doing so. The Committee accordingly suggest that the following sub-section be added:-

> "22(3) Any registered Association intending to prefer a complaint under this Section shall first obtain a certificate from the Registrar that there is a prima facie case on which to found such complaint."

7. Section 23(3) requires to be suitably amended so as to suit local conditions. As it is, the wording seems very wide in its scope and is likely to facilitate an employee getting a double benefit and that too for a pretty long period. It would be

THE MYSORE CHAMBER OF COMMERCE

MEMBER OF:
THE FEDERATION OF INDIAN CHAMBERS OF COMMERCE AND INDUSTRY, INDIA
THE FEDERATION OF CHAMBERS OF COMMERCE OF THE BRITISH EMPIRE, LONDON
THE INTERNATIONAL CHAMBER OF COMMERCE INDIAN NATIONAL COMMITTEE, PARIS
THE INDIAN CHAMBER OF COMMERCE IN GREAT BRITAIN, LONDON

Bangalore City, 5th Decem. *194*1

pension for life, as it were. If an employer were to dismiss an employee for reasons which be believes to be justified and legal and which afterwards were to be decided illegal in a court of law, the employer would be put into irreparable loss. He would have to pay not only the heavy fine of Rs.1000/- for having acted in contravention of the Act but also pay emoluments to the dismissed employee. The Committee would therefore, suggest that the following words should be added after "kept out of employment" - "up to the final decision in the case".

8. Section 25. The Committee desire that the following be substituted for Section 25:-

"25. Every strike shall be illegal which is commenced or continued

1(a) in contravention of the terms of a registered agreement, settlement or a-ward

(b) only for the reason that the employer has not carried out the provisions of any standing order or has made an illegal change

2(a) without giving notice in accordance with the provisions of section 10 and where an agreement is not arrived at before the initiation of conciliation proceedings

(b) in cases where conciliation proceedings in regard to industrial dispute to which the strike relates have commenced, before the expiry of 14 days and after the expiry of two months from the publication of the report

(c) in cases where the dispute has been referred to arbitration, before an award has been given."

As at present drafted, section 25 is difficult to interpret. Sub-sections 1(a), (c) & (d) and Section 25(2) make the time factor the test of illegality. On the other hand, Section (1) (b) and (e) define certain fundamental grounds of illegality entirely unconnected with time. It is not clear why Section 25(1)(b) has been inserted in between two sub-clauses in which the time factor is the basis, and the illegality specified

TELEPHONE NO. 2226

THE MYSORE CHAMBER OF COMMERCE

MEMBER OF:
THE FEDERATION OF INDIAN CHAMBERS OF COMMERCE AND INDUSTRY, INDIA
THE FEDERATION OF CHAMBERS OF COMMERCE OF THE BRITISH EMPIRE, LONDON
THE INTERNATIONAL CHAMBER OF COMMERCE INDIAN NATIONAL COMMITTEE, PARIS
THE INDIAN CHAMBER OF COMMERCE IN GREAT BRITAIN, LONDON

Bangalore City, 5th December *194* 1

specified in (b) cannot be whittled away and become legal by any implication arising from (a), (c) or (d), nor does this appear to be the intention of the Act. In the amendment proposed, all possibility of mis-understanding or misconstruction is avoided. Sub-Section 1(a) and (b) deal with fundamental grounds of illegality. Sub-section 2(a), (b) and (c) deal with the time factor governing illegality. Only one further point of explanation seems necessary. In the amendment now proposed by the Committee, 2(b) defines the time limit within which a strike may be declared lawful. This period begins 14 days after the publication of the report. It seems clear from Section 12(4) that when conciliation fails, conciliation terminates with the publication of the report. The amendment thus overcomes a possible ambiguity in Section 25(2) as now drafted, where a reference is made to conciliation being completed as well as to the publication of the report. There is, in fact, no distinction contemplated between the completion of conciliation proceedings and the publication of the report, and the amendment proposed makes this quite clear.

9. Section 27 & 28. In regard to both these Sections, the Committee feel that an amendment is necessary. After the word "shall" in line 3, it would suggest addition of the word "if the Court finds that such declaration is correct and in accordance with the Act". Under both these sections, the Registrar has the power to declare a lock out or strike illegal. The Sections themselves are confined to prescribing a penalty, and as they now stand it will not be open to the Court, which for the purpose of these Sections is only an instrument of punishment, to go into the rights or wrongs of the Registrar's decision.

THE MYSORE CHAMBER OF COMMERCE

MEMBER OF:
THE FEDERATION OF INDIAN CHAMBERS OF COMMERCE AND INDUSTRY, INDIA
THE FEDERATION OF CHAMBERS OF COMMERCE OF THE BRITISH EMPIRE, LONDON
THE INTERNATIONAL CHAMBER OF COMMERCE INDIAN NATIONAL COMMITTEE, PARIS
THE INDIAN CHAMBER OF COMMERCE IN GREAT BRITAIN, LONDON

Bangalore City, 5th Decem. *194* 1

Important questions of fact or interpretation may rest on such a decision, and in view of the exceedingly heavy penalties, proposed to be imposed on both employers and strikers for an illegal act, it is both expedient and just that a Court of law, with power to call for records, examine witnesses and hear evidence, should provide the necessary check on what, as the Act now stands, amounts to a completely arbitrary declaration.

10. An amendment in the form of a new Section seems also desirable and it can conveniently be inserted after Section 26 as "26-A". The new Section may be in these words:-

> "26-A. The Registrar shall on the written request of an employer or a Registered Association declare within 72 hours a strike or lock-out to be legal or illegal as the case may be."

The present Act fixes no time limit within which the Registrar must make a declaration of legality or illegality of a strike or lock out. It is a matter of the utmost importance for all concerned in a labour dispute to know, within the shortest possible space of time, exactly how they stand in relation to the Act. The penalties imposed for an unlawful action on the part of either the employer or employee are heavy. The duties of the Registrar in this and other functions under the Act should be defined, but the amendment deals with a matter of sufficient importance to justify its appearing in the Act itself. The time limit of 72 hours would allow the Registrar more than sufficient time to reach any part of the State and to ascertain the Facts.

11. The circumstances under which strikes and lock outs are illegal are to be ascertained with reference to Section 25 and 26 of the Act. Under Section 10(4), the employers and the

No. .....

TELEPHONE No. 2226

THE MYSORE CHAMBER OF COMMERCE

MEMBER OF:

THE FEDERATION OF INDIAN CHAMBERS OF COMMERCE AND INDUSTRY, INDIA

THE FEDERATION OF CHAMBERS OF COMMERCE OF THE BRITISH EMPIRE, LONDON

THE INTERNATIONAL CHAMBER OF COMMERCE INDIAN NATIONAL COMMITTEE, PARIS

THE INDIAN CHAMBER OF COMMERCE IN GREAT BRITAIN, LONDON

Bangalore City, 5th Decem 1941

Registered Association have to maintain records of all negotiations with each other, which they are bound to produce when called upon to do so. The declaration, therefore, which the Registrar is required to make can be promulgated without difficulty within the time limit provided in the amendment now proposed by the Committee.

The Committee feel sanguine that the above suggestions will receive full consideration at the hands of Government before the introduction of the Bill in the Legislative Council

I have the honour to be,

Sir,

Your most obedient servant,

H. Rama Iyer

Secretary.

OORGAUM,
Mysore State,
S. India.

December 8, 1941.

The Secretary,
Mysore Legislative Council,
Bangalore.

Sir,

I have the honour to submit the following amendments to the Mysore Labour Act for consideration at the forthcoming Session of the Council commencing 15th December 1941.

A M E N D M E N T S.

Clause 2(1): It is submitted that the following addition to the Clause be included.-

> "..... provided that only one Association of employees shall be constituted within an industrial undertaking"

Clause 13(3): It is submitted that this sub-clause be amended to read as follows:-

> "The Chief Conciliator shall thereupon submit the application within 3 days of its receipt to the Government who shall refer it to the Court of Arbitration or to the sole Arbitrator, if one is mentioned in the application, within 7 days after receipt of such application."

Clause 22: It is submitted that the following sub-clause (3) be added after sub-clause (2):-

> (3) "Any registered Association intending to prefer a complaint under this Clause shall first obtain a certificate from the Registrar that there is a

a prima facie case on which to found such complaint."

Clause 23(3) and (4).- It is submitted that these sub-clauses be deleted and substituted by the following sub-clause, which is taken from Section 64(3) of the Bombay Industrial Disputes Act 1939.--

23 (3).- "The Court trying an offence under this caluse may direct that out of the fine recovered, such amount as it may deem fit shall be paid to the employee concerned as compensation".

ause 25.- It is submitted that this clause be amended to read as follows:-

Clause 25.- "Every strike shall be illegal which is commenced or continued--

1 (a) "in contravention of the terms of a registered agreement or award;

(b) only for the reason that the employer ~~has~~ has not carried out the provisions of any standing order or has made an illegal change

2.(a) without giving notice in accordance with the provisions of clause 10, and where an agreement is not arrived at before the initiation f conciliation proceedings;

(b) in cases where conciliation proceedings in regard to the industrial dispute to which the expiry of 14 days and after the expiry of two months from the publication of the report;

(c) in cases where the dispute has been referred to arbitration, before an Award has been given.

Clauses 27 and 28.- The following amendment is submitted.-

That after the word "shall" in line 3 of clauses 27 and 28, the following words be inserted:-

".....if the Court finds that such declaration is correct and in accordance with the Act."

and further, that a new clause, numbered 29, shall follow clause 28 and read as follows:-

Clause 29 (1)"The Registrar shall on the written
NEW
request of an employer, or a registered Association, declare within 72 hours a lockout or strike to be legal or illegal as the case may be"

(2) An appeal shall lie to the Court of Arbitration from the declaration of legality or illegality of a strike or lockout by the Registrar provided that such appeal is preferred within 15 days from the date of settlement exclusive of the time required for obtaining a copy thereof.

I have the honour to be,
Sir,
Your most obedient servant,

Sd.G.Benn White,
Member,
Mysore Legislative Council.

Copy.

THE BANGALORE WOOLLEN, COTTON AND SILK MILLS EMPLOYEES' UNION

1. The name of the Union shall be "THE BANGALORE WOOLLEN COTTON & SILK MILLS EMPLOYES' UNION."

2. The objects of the Union shall be -

   (i) to improve the condition of its members by providing means for the diffusion of useful knowledge and by the foundation of a Reading Room for the use of the members.

   (ii) to provide medical relief to the members whenever necessary.

   (iii) to provide relief to the dependents of the deceased workmen.

   (iv) to provide relief to the members against accidents and unemployment.

   (v) to provide legal assistance to the members when necessary on matters pertaining to and arising out of the employment of members.

   (vi) to safeguard the interests of the members and to endeavour to obtain and maintain reasonable hours of work and fair rates of wages.

   (vii) to provide a good understanding between the members and their employers, and to settle disputes that may occur by arbitration or by other lawful means.

   (viii) to endeavour to redress their grievances generally.

3. MEMBERSHIP. Any employee of THE BANGALORE WOOLLEN COTTON & SILK MILLS CO. LTD., who has attained the age of 15 years shall be eligible for membership and may be admitted as a member if he puts in his application which is approved by the executive committee of the Union accompanied by his subscription for the first month.

4. SUBSCRIPTIONS. For the purpose of subscription members shall be divided into four classes.-

   (a) Employees of the Mills drawing Rs. 75/- or more a month shall be 'A' class members and shall pay a subscription of As. 6 per month.

   (b) Employees drawing from Rs. 1-4-0 per day to Rs. 75/- per mensem shall be "B" class members and shall pay a subscription of As.5 per month.

   (c) Employees drawing between As. 10/- and Rs. 1-4-0 per day shall be "C" class members and shall pay a subscription of As. 4/- per month.

   (d) Employees drawing less than As. 10/- per day shall be "D" class members and shall pay a subscription of As. 2/- per month.

   (a) Subscription shall be collected by members specially authorised by the executive committee for the purpose and receipts signed by one of the Secretaries shall be issued therefor.

   (b) All amounts collected shall be paid to the Treasurer who shall deposit the same in a recognised Bank selected for the purpose by the Executive Committee.

6. (a) Any member owing more than three months subscription to the Union shall cease to be a member.

   (b) No member who has not been in the Union for at least 12 months and who has not paid up his arrears of subscription due the Union shall be entitled to any of the benefits or reliefs mentioned below.

(c) Employees drawing between As.10/- and Rs.1/4/- per day shall be "C" class members and shall pay a subscription of As.4/- per month.

(d) Employees drawing less than As.10/- per day shall be "D" class members and shall pay a subscription of As.2/- per month.

5. (a) Subscription shall be collected by members specially authorised by the executive committee for the purpose and receipts signed by one of the Secretaries shall be issued therefor.

(b) All amounts collected shall be paid to the Treasurer who shall deposit the same in a recognised Bank selected for the purpose by the Executive Committee.

6. (a) Any member owing more than three months subscription to the Union shall cease to be a member.

(b) No member who has not been in the Union for at least 12 months and who has not paid up his arrears of subscription due to the Union, shall be entitled to any of the benefits or reliefs -- mentioned below.

(c) Any member seeking re-admission shall have to pay his arrea of subscription up to the date of expulsion plus a re-admission charge of As.4/-

Provided that the Executive Committee may for sufficient reason exempt any member from the operation of this clause.

7. A list of members maintained up-to-date shall be kept in the Union office for the inspection of the officers and members; and the Secretaries shall give every facility to officers and members of the Union for the inspection thereof.

8. F U N D S - The amounts collected by way of subscriptions re-admission charges from members shall form the General Funds of the Union and may be spent for such purposes as will promote the objects of the Union.

The following are the purposes for which the General Funds of the Union may be spent.

(i) Payment of expenses to the Officers of the Union

(ii) Payment of expenses for the administration of the Union, including audit of the accounts of the General Funds of the Union.

(iii) LEGAL ASSISTANCE - (i.e.) the prosecution or defence of any legal proceeding to which the Union or any member is a party, when such prosecution or defence is undertaken for the purpose of securing or protecting any rights of the Union or any rights arising out of the relations of any member with his employer.

(a) The Executive Committee may spend up to a maximum of Rs.50/- in any case, and shall obtain the sanction of the General Body if the amount required exceeds Rs.50/-.

(iv) The conduct and settlement of Trade disputes on behalf of the Union or of any member thereof.

(v) The compensation to members for loss arising out of trade disputes.

DEATH BENEFIT TO MEMBERS - (vi) In case of death of any member an amount equivalent to one month's average wages, may be paid to the deceased party.

(Explanation - "One month's average wages" means 1/6th of the total wages of the member for the 6 full months preceeding his death.)

The Executive Committee shall have undisputed power to decide the rightful claimant for the relief.

(vii) Compensation for accidents may be paid only in those cases in which a member does not receive any compensation under the Workmen's Compensation Regulation. The amount of Compensation payable in such cases shall be as follows:-

(a) Sustaining an injury or accident arising out of and in the course of his employment ¼ of average pay per month may be paid for three months.

(b) In case of permanent total disablement Rs.50/-

(c) In case of permanent partial disablement Rs.15/-

(d) In case of temporary disablement exceeding the waiting period of 10 days .. Rs. 5/- per month up to a maximum period of 3 months.

NON EMPLOYMENT RELIEF is allowed only in cases in which a -- member is discharged from the service of the employer and the Executive Committee is of opinion that such discharge is not the result of his misconduct, drunkenness or carelessness on the part of the member. The scale of relief under this rule shall be the same as adopted for death benefit (clause (vi)

THE EXECUTIVE COMMITTEE

(a) The general affairs of the Union shall be managed by an Executive Committee, provided that whenever an expenditure of more than Rs.500/- for any purpose has to be met, the previous sanction of the General Body shall be obtained for the same.

(b) The Executive Committee of the Union shall consist of 20 representatives of the workpeople (that is) not more than 3 members are taken from each department.

(c) The Executive Committee shall be selected at the annual general body meeting and shall hold office for one year.

Interim vacancies shall be filled up by the Executive -- Committee.

(d) From the Executive Committee a President, one or more Vice Presidents, 2 Secretaries and a Treasurer shall be selected by ballot amongst themselves provided that the officers are all persons who have attained the age of 18 years and belong to the four different communities.

(e) None of the officers shall be entitled to any pay.

(f) Any office bearer or other member of the Executive -- Committee absenting himself from 4 consecutive meetings shall be deemed to have vacated his office or seat in the Executive Committee.

(g) Any one so vacating shall be eligible for re-election by the Executive Committee.

(h) No member who so vacates his seats in the Executive -- Committee for the second time in the same year shall be re-nominated for that place during that year.

(i) The Executive Committee shall meet at least once a fortnight and the quorum for the meeting shall be 10.

10. THE PRESIDENT. The President and in his absence one of the Vice Presidents, shall preside over all meetings of the (a) Executive Committee, and if the President and Vice-Presidents are absent, the meeting shall elect its own Chairman.

(b) The Chairman shall be entitled to vote on all questions and if the votes are equally divided on any question, he shall exercise a casting vote.

11. THE SECRETARIES. (a) The Secretaries shall transact all the official business of the Union as directed by the Executive Committee.

(b) They shall be in charge of furniture and other General property of the Union not entrusted to the care and custody of other office bearers.

12. THE TREASURER. (a) The Treasurer shall mairtain the accounts of the Union and be responsible for all the monies received.

(b) The Treasurer shall open a Current account in one of the bank approved by the Executive Committee in the name of the Treasurer the President and the Vice Presidents, The Bangalore Woollen Cotton and Silk Mills Employees Union and shall remit all collection therein, keeping a balance of not more than Rs.50/- in his hands to meet urgent sundry expenses. The withdrawals from the bank shall be made by the above noted officers jointly.

13. FINANCE - (a) All bills connected with the Union shall be signed by the Secretaries.

(b) An auditor shall be appointed every year at the annual General Meeting to audit the accounts of the Union and he shall be paid such fees as the Executive Committee may deem necessary.

(c) The books and accounts of the Union shall be open to inspection by the Officers and members at the Union office at all reasonable times.

14. RULES OF THE UNION.

a) No rule of the Union shall be made repealed or modified except at the annual meetings or special meetings of General Body of the Union.

(b) The Executive Committee may from time to time frame bye-laws not inconsistent with the rules and object of the Union and such bye-laws shall have the same force as the rules of the Union until they are rescinded by the General Body.

15. MEETINGS OF THE GENERAL BODY.

(a) There shall be a meeting of the General Body of the Union once at least a year in the month of April for transacting official business such as election of the Executive Committee, passing of accounts, changes in rules etc.

(b) Special meetings of the General Body for transacting any special business connected with the conduct of the Union may be convened:-

(1) By the President or in his absence by any of the Vice Presidents, if it is deemed necessary.

(2) By the President, any of the Vice Presidents or Secretaries on the written requisition of at least.

(a) Half the number of members of the Executive Committee or

(b) 100 or 20% of the number of the members on the rolls of the Union at any time.

(a) The quorum for the Annual and Special meetings of the General Body shall be 25 per cent.

(b) At least seven days clear notice shall be given for convening the Annual or Special Meetings.

(c) Besides these meetings the Secretaries may with the approve of the Executive Committee arrange for ordinary meetings to speak on matters of general interest to the Union and the Labour movement.

DISSOLUTION OR AMALGAMATION OF THE UNION.

(a) If at any time the Union is to be dissolved or amalgamated with any other Union a resolution to that effect shall be -- passed by at least 3/4th of the members of the Executive -- Committee assembled in meeting and the same shall be approved at a meeting of the General Body at which at least 60% of the members on the rolls shall vote for it.

(b) In case of dissolution, the funds of the Union shall be given to some other charitable societies as may be determined by the votes of not less than 3/5th of the members present personally or by proxy at the time of the dissolution, as laid down in section 15 of the

THE KOLAR GOLD FIELDS LABOUR UNION

Bye-Laws and Constitution: --

(1) N a m e.

The name of the Union shall be 'THE KOLAR GOLD FIELDS LABOUR UNION' or more familiarly 'THE K.G.F. LABOUR UNION'

(2) HEADQUARTERS:

The Head Office of the Union will be located in K.G.F. or such other places as may be determined by the Central Committee of the Union.

(3) OBJECTS:

(a) The objects of the Union shall be those defined in the Indian Trade Unions Act of 1926 and permitted according to it. They will include the following consistent with those provisions.

(b) To secure the complete organisation of the workers employed in the Kolar Gold Fields, by all peaceful, non-violen and constitutional methods, and to promote among them a health spirit of fellowship, brotherhood and co-operation for mutual good and benefit.

(c) To create and develop in the members a proper sense of their responsibilities, duties and obligations as workers in an important Industry and citizens of a great and glorious country.

(d) To promote cordial and harmonious relations between the Companies operating the Gold Mines in the K.G.F. and their representatives on the one hand, and the workers employed by the respective Companies on the other hand and to secure the settlement of all differences and disputes between them by negotiations, representations discussions, Government intervention and other constitutional and approved Trade Unions methods. Direct action

shall be adopted only as a last recourse, after exploring reasonably all other possible avenues for a settlement and under special and unavoidable circumstances.

(e) To secure for the workers fair, just and reasonable conditions of work and life;

(f) To give the workers all possible help whenever necessary, consistent with the Indian Trade Unions Act of 1926.

(g) To secure redress for day to-day difficulties and hardships of workers by representations and negotiations with the concerned employers and if necessary, appeals to Government.

(h) To organise and provide adequate relief to workers during sickness, unemployment and old age; and during periods of legitimate disputes with the employers conducted by the Unic

(i) To render legal and other technical help to workers in disputes with the employers for securing fulfilment of -- legal obligations and rightful claims.

(j) To collect statistics of wages service conditions, cost and standard of living and economic and social conditions of life of workers with a view to secure improvements by reform by the employers and necessary legislation by the State;

(k) To endeavour to secure legislation for protection and advancing workers interests and to set up its candidates or support such candidate approved by the Central Executive Committee for legislatures, Local Bodies etc.

(l) To work for the moral, material, social, economic and political advancement of the workers by all peaceful and constitutional methods.

(m) To promote among the workers wholesome and healthy habits of Thrift, Temperance and Co-operation.

To organise and conduct night schools, reading roo Libraries and apportunities for the educational and cultu development of the workers by proper and useful utilisati of available leisure$.

(n) To conduct schemes of Social Insurance, Co-operative Banks and Stores for the help of the workers.

(o) To co-operate and federate with other similar organisations in the State and outside with same objects in the interests of Labour

(p) To conduct periodicals for educating the workers and for furthering the above objects.

(q) To co-operative with the endeavours of the employers and the Government to improve the life and living of the workers;

(r) To organise Branches and sub-branches of the Union for Administrative convenience and prompt and speedy attention to workers' representations;

(s) And such other legitimate objects as may be determined by the Central Executive Committee of the Union in the General Body from time to time.

(4) (a) While striving ceaselessly to establish workers' fundamental rights and self-respect in the industry, the Union will recognise the obligations of the workers to the respective employers for

(1) faithful, efficient and punctual discharge of their duties,

(2) the maintenance of due standards of conduct and discipline, and

(3) obedience courtesy and respect to Authority.

(4)(b) Peaceful and legitimate methods alone shall be followed by the Union in all its activities and the use or advocacy, of any form of violence shall be strictly discountenanced and completely resisted.

(4) (c) The Union shall not also countenance racial, Communal, religious sectarian or other principles in its programme and activities.

MEMBERSHIP:

The membership of the Union shall be absolutely voluntarily and open to all the workers employed in the -- Kolar Gold Mines and their Administration at Kolar, who are above the age of 18 years and agree to abide by its rules and regulations in force or may be made hereafter, consistent with the provisions of the Indian Trade Unions Act, and their filling up duly the "Application for Admission" and paying the subscription laid down for a month.

(5) (b) Honorary Members:

Subject to provisions of Section 22 of the Indian Trade Unions Act the Central Executive Committee of the Union -- shall have power to admit as an 'Honorary Member' of Union any person not actually in employment in the Mines, but whose admission as an 'Honorary Member' is considered to be in the interests of the Union and its proper guidance and development.

(5) (b) 2. Such 'Honorary Members' after admission shall be eligible for election to any office in the Union.

(5) (b) 3: The number of such 'Honorary Members' shall at no time be more than 25% of the total strength of the -- Executive Committee of the Union.

(5) (b) 4: Such Honorary Members' shall pay no subscription and also have no vote at any meeting, except a Casting vote when presiding as president or Vice-President of the Union over a meeting.

(6) Subscriptions:

Annas 12 per year shall be the minimum subscription payable in monthly instalments or in lump sum, according to the convenience of the members, to qualify them for membership of the Union.

(b) It shall be open to the Executive Committee of the Union to make special levies, besides the subscriptions and all such levies shall be treated as contribution by way of donations by members.

(c) Every member will be granted a Membership Card, on payment of the full subscription for the year.

(d) Members who fail to pay up their subscription before the end of the official year will forfeit all rights and benefits from the Union.

(e) They will be admitted only on payment of an Admission fee of annas eight, the arrears and also the full amount of subscription for the current year

OFFICE BEARERS AND GOVERNMENT OF THE UNION

The Union shall be conducted by a General President

One or more Vice-Presidents

One General Secretary

One or more Assistant Secretaries

One Treasurer

The Presidents and Secretaries of the Separate branches of the Union for each Mine.

Representative of each branch of the Union for every 500 members or part thereof elected directly by the members of each branch at the Annual General Body of the Branch or any meeting specially convened for the purpose.

And three members to be co-opted by the Central Executive Committee from only qualified members for special representations.

(8) Branches and their constitution:

(a) There shall be formed to look after the interests of members in each Mine in the K.G.F; a separate branch of the Union, as soon as, at least 25% of the workers employed in that Mine are enrolled as members of the Union.

(b) Every such branch will function under the direct control, supervision and guidance of the Central Union and its Executive Officers.

(c) The branch shall not act in any manner at variance with the objects, policy and decisions of the Central Union.

(d) Subject to such control, every branch shall have a separate Executive consisting of the President, 1 Vice-President, one Secretary, one Treasurer, 1 Assistant Secretary and 1 representative for every 100 members or fractions the of.

(e) The General President and General Secretary and other Officers of the Central Committee of the Union could attend and take part in the meetings of the Executive Committee as well as the General Body of the branches.

(f) The officers and members of the Executive of the branches shall all be elected at the Annual General Meeing of the branches or at special meetings called for the purpose, from among the qualified members of the Union employed in the Mine concerned.

(g) The activities of the branches shall be subject to all the rules of the Central Union and such other conditions as may be laid down.

(h) The expenditure of a branch shall not exceed 25% of ~~the~~ its revenue.

(i) Every branch shall maintain its registers, books and files separately on the same lines as the Central Union.

(j) The Central Executive shall have power to dissolve or suspend a branch by taking over its management.

(k) The Officers of the branches could meet and correspond with the authorities of the particular Mines in regard to the problems of workers employed in those Mines. Reports of such meetings and copies of correspondence shall be immediately sent to the Central Union. No settlements involving policies and important matters should be reached or accepted by the branch officials without the explicit consent of the Central Executive.

The Central Executive of the Union could mae representations at any stage to the Management of any Mine regarding the grievances of members.

(9) Vacancies and removals

(a) All vacancies in the Central Executive Committees or of the branches during the course of a year shall be fille by co-option.

(b) Any member of the Union who acts against its interests could be removed by the Central Executive of the Union after 10 days' notice in writing by 3/4 majority of the members present.

(c) When so removed the member concerned shall have the right of an appeal to the General Body of the Union which he should however execise within 10 days from the date of his explusion.

(10) Meetings:- (a) An Annual General Meeting of the Central Union shall be held in January, every year, or as early, thereafter as possible for election of officers, adopting the Audited Accounts of the Union, the Administration Report, the Budget for the ensuing year ~~and~~

and transacting such other business as may be submitted by the Central Committee of the Union for its decision.

(b) A weeks notice of the Annual Meeting shall be given to members by notification at the Union premises and circulation of printed notices among the members.

(c) The Annual Meeting of the Central Union shall be held only after the Annual Meetings of all the branches and the election of the branch officers and members of the branch Executive Committees and representatives to the Central Executive Committee who shall form the delegates of the respective branches for the Annual General Body Meeting of the Central Union.

(d) A General Bodv Meeting of the Union other than the Annual Meeting may be convened by the Central Executive, whenever considered by it to be necessary.

(e) Such a meeting should also be convened when ever desired, in writing, by at least 20% of the qualified members of the Union.

(f) The Central Executive Committee shall meet at least once a month and be convened by the President or General Secretary for passing the monthly Accounts and transacting such other business as might be placed before it.

(g) The Central Executive Committee shall also be summoned to meet whenever necessary or desired by 1/3 of the members thereof in writing to the President.

(h) All the above rules in this regard shall apply to the Executive Committee of the branches also.

(i) The President and, in his absence, the Vice-President shall preside over all meetings. When the President as well as Vice-Presidents are absent the meetings might be conducted with one of the members duly elected to preside, provided more than $\frac{3}{4}$ of the

members are present. Otherwise the meetings shall be adjourned to any day fixed by the meetings.

(j) Mass meetings of workers could be held whenever considered necessary by the central or branch Unions as the case may be for communication of informations propaganda and similar objects.

(k) Quorum for Meetings shall be as follows:-

Central and Branch Committees - 60% of members.

Branch General Body Meeting 60% of the total strength

General Body of the Central Union. 60 of the total strength of the officers and members of the Central and branch Executives.

(l) Notice of Meetings:-

Notice of Meetings shall be as follows:-

Annual Meeting of the General Body of the Central Union .... 10 days.

Special Meetings of the General Body .. 5 days.

Annual Meeting of branches .. 7 days.

Meetings of Branch Executive Committees.. 2 days.

Meeting of the Executive Committee of the Central Union .... 4 days.

(m) The President or General Secretary shall have power to call for emergent meetings of the branch or central committees at any time without such notice to consider urgent matters.

(11) S T R I K E S.

(a) Workers who strike without the permission or direction of the Union shall not be entitled to any help or support from the Union. Deciplinary action could also be taken against such member for unauthorised action.

(c) The Central Executive of the Union shall alone have the

the power to call for a strike.

(d) No notice of cessation of work shall be given by the Union unless the particular grievances of the workers, in dispute, have been submitted in writing to the Management of the concerned Mining Company and all avenues for a settlement by negotiation, concilation, mediation and arbitration open under the laws of the State or which might be mutually agreed upon by the employers and the Union have been reasonably explored.

(e) When the Central Executive of the Union considers a strike in one or all the Mines necessary a ballot with due provision for facility and secrecy shall be conducted (1) among the members from all the Mines if the grievances at issue concern the workers of all the Mines, (2) or among only the members of the Mine or Mines involved in the particular dispute as the case may be.

(f) No strike shall be called unless at least 50% of the members have voted and $\frac{3}{4}$ of them have declared themselves in favour of the strike.

(g) When only one mine is involved the ballot shall be conducted only among the members employed in the particular Mine and the above rules in regard to the results of the ballot will apply.

(h) The Central Executive Committees shall have power to call for a strike at any time in spite of all the above Limitations, if in its opinion such action is necessary to protect the interests of workers and also power to call off a strike at any stage on its own responsibility.

(12) FUNDS:

(a) All subscriptions, donations, and other incomes of the Union shall be credited to the its General Fund, unless otherwise specially earmarked for a definite purpose, and be deposited in the name of the Union in a Bank selected by the Central Executive Committee of the Union.

(b) The funds will be operated, jointly, by the General Secretary, Treasurer and one Trustee appointed by the General Body of the Central Union at its Annual Meeting.

(c) The branches shall remit to the Central Union without delay all the subscriptions and donations and other amounts received.

(d) The Branches shall draw from the Central the funds necessary for their expenditure and sanctioned by their respective Branch Executive Committee which shall not ordinarily exceed 25 percent of the revenues from the Branch concerned.

(e) All receipts for moneys received shall be issued over the joint signatures of the General Secretary and Treasurer or the Branch Secretary and Branch Treasurer as the case may be.

(f) The General Secretary shall have power to spend up to Rs.10/- a month without the prior consent of the Central Committee.

(g) The General President could authorise such expenditure upto Rs.25/- on any single occasion. But such expenditure should be submitted to the next meeting of the Central Committee.

(h) Similarly and under the same conditions, the branch President and Secretary could authorise expenditure upto Rs.10/- and Rs.25/- respectively.

(i) The Secretaries of the Branches in respect of Branch and the General Secretary in respect of the Central Union shall submit, every month, to their respective committees the monthly accounts for examination and approval.

(j) The funds of the Union shall be spent only on the objects defined and consistent with the conditions laid down in the Indian Trade Union's Act.

(13) ANNUAL AUDIT.

(a) The accounts of the Union and the Branches shall be audited, once a year, in the month of January, or as early thereafter as possible but unfailingly before the Annual Meetings by a qualified and certified auditor appointed by the Central Committee of the Union.

(a) The accounts of the Union and the Branches shall be audited once a year in the month of January, or as early thereafter as possible but unfailingly before the annual meetings by a qualified and certified auditor appointed by the Central Committee of the Union.

(b) The Audited statements of income and expenditure and Balance Sheets and report of the Auditor shall be presented to the branch Annual Meetings in the case of the Branches and the Annual General Body Meetings of the Central Union in respect of the whole Union.

(14)(a) MAINTENANCE OF REGISTERS, BOOKS AND RECORDS:-

The General Secretary shall be responsible for the maintenance of the registers, records and books of the Union and the proper and orderly running of the Head Office.

(b) Similarly the Branch Secretaries shall be responsibl in regard to their branches.

(15) CORRESPONDENCE AND OFFICE MANAGEMENT:-

(a) The General Secretary and the Branch Secretaries shall ordinarily carry on all correspondence with the employer and others under the guidance of the General President and Branch Presidents respectively.

(b) The President shall appoint and deal with the staff necessary for the Union and its Branches sanctioned by the Central Committee.

(16) INSPECTION OF REGISTERS:-

(a) Any member not in arrears of subscription shall have the right to inspect the Registers of the Union during the working hours of the Union and with the approval of the General Secretary.

(b) A week's notice of such inspection shall, however be given by such member to the General Secretary of his intentio to so inspect and the registers required.

(17) AMENDMENT OF BYE-LAWS:-

(a) The Bye-laws of the Union could be amended altered or modified by the Annual General Body Meeting of the Central Union or a special meeting of the General Body of the Central Union convened for the purpose after a clear notice of at least 10 days to the members

(b) The approval of the members present would be necessary for the purpose and the meeting should be attende by at least 60% of the Members.

(18) DISSOLUTION:-

(a) The Union could be dissolved by a special meeting of the General Body called for the purpose after 15 days notice to members.

(b) At least 75% of the members should attend such meeting and the decision should be taken 3/4 of the members present.

(c) In case of such dissolution the funds and other properties of the Union shall credit to the Mysore State Harijan Seva Sangh after defraying all outstandings to be utilised for Harijan uplifts in the Kolar Gold Fields.

Registered Office :-
The Bank of Mysore, Ltd.,
Chikmagalur,
Kadur District.

Ref. No.

M.P.A.
1864

THE MYSORE PLANTERS' ASSOCIATION
(INCORPORATED)

Goomankhan Estate.
Hirebile.P.O.
Kadur District.
Mysore State.

6/12/41

Please issue at Mand
UO 9/12

From. The Secretary.
The Mysore Planters' Association.
Hirebile.P.O.

To. The Law Member.
The Government of Mysore.
Bangalore.

Issue
9.12.41

Sir

The Mysore Labour Bill.

In the Gazette of the 4th inst, the above Bill is shown as being applicable to plantation labour, whereas we understood that it was not the intention of Government that this should be so.

I beg to ask if it would be possible to insert a specific proviso to Sec.3(14) making this point clear ?

A copy of this letter is sent to Mr Dennis, the European Planting Constituency Member of Council, who will be asking if he can see you in this connection.

I have the honour to remain,
Sir
Your most obedient servant,

Secretary.
M.P.A.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

General and Revenue Secretariat.

No. R.L.W.C.
Emil.(1)

Dated. Bangalore, 9th December 194

FROM

V. Vedavyasacharya, Esq., B.A.,
The Secretary to the Government of His Highness the Maharaja of Mysore.
Development Department.

To

The Secretary,
The Mysore Planters' Association,
Hirebile P.O.

S i r,

Subject.- The Mysore Labour Bill.

With reference to your letter of the 6th instant to the Minister for Law on the above subject, I am directed to state that the Government cannot move any amendment to the Bill which has to be placed before the Legislative Council in the form in which it was passed by the Representative Assembly. But it is open to the member representing the Planting Constituency on the Legislative Council to move an amendment. I am to enclose for your information relevant extracts from the Legislative Council Standing Orders.

I have the honour to be,
Sir,
Your most obedient servant,

Sd. V.VEDAVYASACHARYA,
Secretary to Government,
Development Department.

Memo No. 1123 dated Bangalore the 9th December 1941.

Copy of the above is forwarded with compliments to Mr. S.H. Hennis, Member, Legislative Council, No.2 Palmgrove Road, C.& M. Station, Bangalore, for information.

9/12

Secretary to Government,
Development Department.

G. R. S. VI.—S-III/14]

DRAFT.

SUBJECT.....

.....

.....

Section. Legs
File No. ~~39~~-41
Serial No. 144

Proceedings of the Government of H. H. the Maharaja of Mysore.

Diary No. of letter replied to.....

GENERAL AND REVENUE SECRETARIAT,

( )

, the.....*191*

Date of issue.....

Signed by.....

Order No. R. L. 132. 3.

Ordered that the accompanying Mysore Labour Act

which received the assent of His Highness the Maharaja, on the 10th day of January 1942, be published as ~~Regulation~~ Act No. XIII of 1942, in the *Mysore Gazette* for general information.

27.1.42

27.1.42 *Secretary to Government.*
Law Department

May this be—

(i) Printed?

(ii) Treated as a standing order?

(iii) Published in the "Gazette" English part?

(iv) Translated?

(v) Placed at the disposal of the Press?

(vi) Published in the "Gazette" Kannada part?

To

The Compiler, *Mysore Gazette*, for publication in Part ~~III~~ of the Gazette, in English and Kannada and for supply of .....spare copies in English, and .....spare copies in Kannada to this office, and.....spare copies in English and.....spare copies in Kannada to the Curator, Government Central Book Depot, Bangalore. Proofs should be sent to this office for approval before publication.

Spare as per order

~~NOTIFICATION.~~

THE MYSORE LABOUR BILL.

~~as amended by the Select Committee~~

~~(Omissions are enclosed in square brackets and additions are in italics.)~~

~~[WHEREAS it is expedient to make provision for the promotion of peaceful and amicable settlement of industrial disputes by conciliation and arbitration and the organisation of industrial employees into associations to secure their welfare, and for certain other purposes hereinafter provided;~~

~~It is hereby enacted as follows:—]~~

WHEREAS it is expedient to make provision for the organisation of industrial employees into associations to secure their welfare, for the promotion of peaceful and amicable settlement of industrial disputes by conciliation and arbitration, and for certain other purposes hereinafter provided;

It is hereby enacted as follows:—

Short title, commencement, extent and application.

1. (1) This Act may be called the Mysore Labour Act, 194 .

(2) This section shall come into force at once. The Government may, by notification in the official Gazette, apply all or any of the other provisions of this Act from such date as may be specified in the notification.

(3) It extends to the whole of Mysore.

(4) It shall apply to all industrial undertakings, whether owned by a person or by the Government or by a local authority.

Recognition of association of employees.

2. (1) The right of employees in an industrial undertaking to combine into an association for the promotion of their common interests is hereby recognised and declared :

Provided that there shall be only one Association of employees in respect of an industrial undertaking.

(2) The Government may, ~~[on the recommendation of the Commissioner of Labour]~~, extend this right to employees in small industrial undertakings engaged in work of the same nature in any local area or to employees in industrial undertakings engaged in work of the same nature located in different areas:

Definitions.

3. In this Act, unless there is anything repugnant in the subject or context,—

) Award" means any interim or final determination in an arbitration proceeding under this Act

(2) "Board" means the Board of Conciliation appointed under this Act

3) "Change" means a change in any industrial matter;

4) "Commissioner of Labour" includes an Assistant Commissioner of Labour

(5) "Conciliation Proceeding" means any proceeding held by a Conciliator or the Board under this Act;

(6) "Conciliator" means any Conciliator appointed under this Act and includes the Chief Conciliator or Special Conciliator;

(7) "Court" means a court of arbitration appointed under this Act;

(8) "Employee" means any person employed to do any skilled or unskilled manual or clerical work for hire or reward in any industry and includes, for the purposes of any proceedings under this Act in relation to any industrial dispute, an employee discharged on account of such dispute relating to a change in respect of which a notice is given under section 10 whether before or after the discharge;

(9) "Employer" includes—

(*a*) any agent of an employer;

(*b*) where an industry is conducted or carried on by a department of the Government, the authority prescribed in that behalf, and where no such authority has been prescribed, the head of such department;

(*c*) where an industry is conducted or carried on by or on behalf of a local authority, the Chief Executive Officer of such authority; or

(*d*) where the owner of any industry, in the course of or for the purpose of conducting such industry, contracts with any other person for the execution by or under the contractor of the whole or any part of any work which is ordinarily part of the said industry, the owner of such industry;

(10) "Industrial Dispute" means any dispute or difference between an employer and employee or employees, which is connected with any industrial matter; or between employees and employees

(11) "Industrial Matter" means any matter relating to work, pay, wages, reward, hours of work, privileges, rights or duties of employers or employees, or the mode, terms and conditions of employment or non-employment and includes—

(*a*) all matters pertaining to the relationship between employers and employees, or to the dismissal or non-employment of any person;

(*b*) all matters as to the demarcation of functions of any employees or classes of employees;

(*c*) all matters pertaining to any right or claim under or in respect of or concerning an agreement, settlement or award made under this Act, and

(*d*) all questions of what is fair and right in relation to any industrial matter having regard to the interest of the person immediately concerned and of the community as a whole;

(12) "Industrial Undertaking" means a unit of industry under one employer in the same city, town or village;

(13) "Industry" includes—

(*a*) any business, trade, manufacture or undertaking or calling of employers; and

(*b*) any calling, service, employment, handicraft or industrial occupation or avocation of employees;

(14) "Local Area" means an area notified as such by the Government;

(15) "Lock-out" means the closing of a place or part of a place of employment or the total or partial suspension of work by an employer or the total or partial refusal by an employer to continue to employ persons employed by him, where such closing, suspension or refusal occurs in consequence of an industrial dispute and is intended for the purpose of compelling those persons or of aiding another employer in compelling persons employed by him to accept any term or condition of or affecting employment;

(16) "Member" means a person who is an ordinary member of an association and who is paying subscription of not less than one anna per month and the term "membership" shall be construed accordingly, and shall include an honorary member holding an office in the association;

(17) "Prescribed" means prescribed by rules made under this Act;

(18) "Registered Association" means an association of employees registered under this Act;

(19) "Registered Agreement" means an agreement registered under section 10

(20) "Registrar" means the Registrar of Associations appointed under this Act;

(21) "Schedule" means a schedule appended to this Act;

(22) "Settlement" means a settlement arrived at during the course of a conciliation proceeding; and

(23) "Strike" means a total or partial cessation of work by employees employed in an industry acting in combination or a concerted refusal or a refusal under a common understanding of employees to continue to work or to accept work where such cessation or refusal is in consequence of an industrial dispute in any industry and is intended for the purpose of compelling any employer to accept any term or condition of or affecting employment.

4. (1) The Government shall appoint a person as Commissioner of Labour whose jurisdiction shall extend throughout Mysore.

(2) The Government may also appoint for any local area or otherwise one or more Assistant Commissioners of Labour, who shall exercise such of the powers and perform such of the duties of the Commissioner as may be delegated by him, and subject to his control and supervision.

(3) For the purpose of exercising his powers and performing his duties, the Commissioner may, after giving reasonable notice, enter any place used for the purpose of any industry or as the office of any Registered Association and shall be entitled to call for and inspect all relevant documents which are necessary for the due discharge of his duties and powers under this Act. The Commissioner may for the same purpose enter, after giving reasonable notice, any premises provided by an employer for the purpose of residence of his employees.

(4) All particulars contained in or information obtained from any document inspected or called for under sub-section (3) shall, if the person in whose possession the document was, so requires, be treated as confidential.

(5) The Commissioner shall be entitled to appear in any proceeding under the Act and also to attend meetings of Registered Associations.

Commissioner's duties.

5. It shall be the duty of the Commissioner to help in organising association of employees in each industrial undertaking employing not less than 100 ~~[workmen,]~~ *employees* and to assist ~~[and guide]~~ the officers of Registered Associations in the discharge of their duties and in developing the work of such associations.

Registrar of Associations.

6. (1) The Government shall appoint an officer to be Registrar of Associations for Mysore.

(2) He shall maintain a Register of Associations and such other registers as may be prescribed.

(3) On receipt of an application from an association of employees for registration and on payment of the prescribed fee, the Registrar shall, if he is satisfied that the association fulfils the prescribed conditions, register the association and issue a certificate of registration.

(4) Every such Registered Association shall be a body corporate by the name under which it has been registered and shall have perpetual succession and a common seal with power to acquire and hold both movable and immovable property and to contract, and shall by the said name sue and be sued.

Provisions to be contained in the rules of an association.

7. An association shall not be entitled to registration under this Act unless the executive thereof is constituted in accordance with the provisions of this Act, and the rules thereof provide for the following matters, namely,—

(*a*) the name of the association ;

(*b*) the whole of the objects for which the association has been established ;

(*c*) the whole of the purposes for which the general funds of the association shall be applicable, all of which purposes shall be purposes to which such funds are lawfully applicable under this Act ;

(*d*) the maintenance of a list of the members of the association and adequate facilities for the inspection thereof by the officers and members of the association ;

(*e*) the admission of ordinary members who shall be members actually engaged or employed in the industrial

undertaking concerned and also the condition for the admission of honorary members as officers: provided that not more than two such members shall be so admitted into any association and provided further that no one shall be an honorary member of more than one association at the same time;

(*f*) the conditions under which any member shall be entitled to any benefit assured by the rules and under which any fine or forfeiture may be imposed on the members;

(*g*) the manner in which the rules shall be amended, varied or rescinded;

(*h*) the manner in which the members of the executive and the other officers of the association shall be appointed and removed;

(*i*) the safe custody of the funds of the association, an annual audit in such manner as may be prescribed, of the accounts thereof and adequate facilities for the inspection of the account books by the officers and members of the association;

(*j*) the manner in which the association may be dissolved; and

(*k*) the procedure to be followed before the association can call a strike, including a secret ballot of the members and the minimum votes necessary.

Objects on which general funds may be spent.

8. The general funds of a Registered Association shall not be spent on any other objects than the following, namely,—

(*a*) the payment of salaries, allowances and expenses to officers of the association;

(*b*) the payment of expenses for the administration of the association, including audit of the accounts of the general funds of the association;

(*c*) the prosecution or defence of any legal proceeding to which the association or any member thereof is a party, when such prosecution or defence is undertaken for the purpose of securing or protecting any rights of the association as such or any rights arising out of the relations of any member with his employer;

(*d*) the conduct of labour disputes on behalf of the association or any member thereof;

(*e*) the compensation of members for loss arising out of labour disputes;

(*f*) allowances to members or their dependents on account of death, old age, sickness, accidents or unemployment of such members;

(*g*) the provision of educational or social benefits for members (including the payment of the expenses of funeral or religious ceremonies for deceased members);

(*h*) *the payment of expenses in connection with the election of representatives of labour provided by statute for the Houses of Legislature and local bodies in Mysore not exceeding a sum of Rs. 100 in each case*;

(*i*) ~~[(h)]~~ subject to any conditions contained in the notification, any other object notified by the Government in the official Gazette.

Standing orders regarding industrial matters.

9. (1) Within three months after the commencement of the Act, the employer in respect of every industrial undertaking employing not less than 100 ~~[workmen]~~ *employees* shall furnish the Commissioner with a statement of standing orders regulating the relations between him and his employees in respect of matters specified in Schedule I of this Act and simultaneously furnish a copy of the same in English and Kannada to the Registered Association of employees in his concern.

(2) The association shall submit to the Commissioner within 15 days of such receipt any points objected to by them as inconsistent with existing practice. The Commissioner shall thereupon hold a summary enquiry on such points, settle the standing orders as found by him and furnish both to the employer and to the association a copy of the standing orders as settled by him.

(3) An appeal shall lie to the Court of Arbitration from the order of settlement of the standing orders by the Commissioner, provided that such appeal is preferred within 15 days from the date of the settlement exclusive of the time required for obtaining a copy thereof.

(4) The Commissioner or the Court of Arbitration, as the case may be, shall send a copy of the standing orders settled or of the award made under the preceding sub-sections to the Registrar for registering it in a Register of Standing Orders and Agreements.

(5) The standing orders settled by the Commissioner under sub-section (2) or the award made by the Court of Arbitration under sub-section (3), as the case may be, shall be determinative of the relations between the employer and his employees in all matters included therein.

Employers or employees desiring change in standing orders and other industrial matters to give notice.

10. (1) An employer intending to effect any change in any standing order settled under section 9 or in respect of an industrial matter mentioned in Schedule II shall give notice of such intention in the prescribed form to the Registered Association. He shall send a copy of such notice to the Commissioner of Labour, the Chief Conciliator, the Registrar, and to such other person as may be prescribed. He shall also affix a copy of such notice at a conspicuous place in the premises where the employees affected by the change are employed for work and at such other place as may be directed by the Chief Conciliator in any case.

(2) A Registered Association desiring a change in any such standing order or in respect of any other industrial matter shall give notice in the form prescribed to the employer and shall also forward a copy of the notice to the Commissioner of Labour, the Chief Conciliator, the Registrar, and to such other person as may be prescribed.

(3) The Commissioner shall ascertain within 15 days after the receipt of such notice whether the proposed change is mutually agreed to between the employer and the Association and if so agreed to, send a copy relating to the change to the Registrar for registering it in the Register of Agreements and inform both parties. ~~[In case of disagreement within 15 days]~~ *In case of agreement not being reached within fifteen days*, he shall report to the Chief Conciliator for initiating conciliation proceedings under this Act.

(4) The employer and the Registered Association shall maintain records of all negotiations with each other, and shall produce such records when called upon to do so, during any subsequent proceedings under the Act.

Conciliators and Board of Conciliation.

11. (1) The Registrar of Associations shall be *ex-officio* Chief Conciliator in Mysore.

(2) The Government may, on the recommendation of the Chief Conciliator, appoint a Special Conciliator in respect of any dispute.

(3) During the pendency of any proceedings before the Conciliator under the foregoing provisions, the Government may, and if both the parties agree either prior to the commencement of such proceedings or after the failure of the Conciliator to bring about a settlement, shall refer the dispute to a Board of Conciliation consisting of three independent persons.

12. (1) The Conciliator or the Board shall conclude the enquiry within one month of the initiation of conciliation proceedings or the appointment of the Board, as the case may be. **Conciliation proceedings.**

(2) If a settlement be reached in the conciliation proceedings, the Conciliator or the Chairman of the Board shall send a report of proceedings with a copy of the memorandum of settlement to the Registrar and to both the parties.

(3) The Registrar shall record the settlement in the Register of Agreements.

(4) Where the parties do not come to a settlement, the Conciliator or the Board shall submit a report to Government through the Chief Conciliator and such report shall be published in the official Gazette not later than the second issue after the date of receipt of the report.

~~[13.] [(1) The Government may constitute a Court of Arbitration for determining industrial disputes.]~~ **Court of Arbitration and proceedings in Arbitration.**

13. (1) The Government may constitute a court of arbitration.

(2) It shall be the duty of the court of arbitration—

(i) *to decide appeals from the orders of the Commissioner of Labour regarding standing orders;*

(ii) *to decide industrial disputes in accordance with the submissions which are registered and which provide for reference to the court of arbitration;*

(iii) *to decide industrial disputes referred to it under the Act;*

(iv) *to decide such other matters as may be referred to it under the Act or the rules.*

(3) ~~[(2)]~~ At any time during the progress of the iation proceedings, *or thereafter* the employer and the Association concerned may jointly apply to the Chief Conciliator for referring the point in dispute to arbitration, forthwith.

(4) ~~[(3)]~~ The Chief Conciliator shall thereupon submit the application to the Government who shall refer it to the Court of Arbitration or to the Sole Arbitrator, if one is mentioned in the application.

(5) ~~[(4)]~~ The Court of Arbitration or the Sole Arbitrator shall certify its or his award to the Registrar and to the parties in dispute.

(6) ~~[(5)]~~ The Registrar shall record the Award in the Register of Agreements.

(7) ~~[(6)]~~ The Award shall be binding on the parties to the dispute and on their successors and assigns and shall not be called in question in any civil or Criminal Court or other judicial proceedings.

14. (1) *An employer and a registered association may by a written agreement agree to submit any present or future industrial dispute or any classes of such dispute to arbitration of any person whether such arbitrator is named in such agreement or not. Such agreement shall be called a submission.*

(2) *Any such agreement arrived at before the coming into force of this Act between an employer and an association shall also be deemed to be a submission.*

(3) *Such submission may provide that the dispute shall be referred to the court of arbitration.*

(4) *A copy of every such submission shall be sent to the Registrar who shall register it in a register to be maintained for this purpose.*

(5) *In the absence of an agreement to the contrary, every such submission shall be irrevocable: Provided that the submission to refer future disputes to arbitration may at any time be revoked by either of the parties to such submission by giving the other party three months notice in writing:*

Provided further that before the expiry of the said period of three months, the parties may agree to continue the submission for such further period as may be agreed upon between them.

(6) *The proceedings in arbitration under this section shall be in accordance with the provisions of* ~~*Schedule II of the Code of Civil Procedure, 1911,*~~ *in so far as they are applicable and the powers which are exercisable by a Civil Court under the said provision shall be exercisable by the court of arbitration.*

(7) *No conciliation proceedings shall be commenced in respect of any dispute if the majority of the employees directly affected by such dispute are members of the registered association which is a party to a submission relating to such dispute.*

(8) *The arbitrator may refer any matter in which a decision on any question of law is required to the court of arbitration for its decision. Any award made by the arbitrator shall be in accordance with such decision.*

(9) *The arbitrator shall, after hearing the parties concerned, make an award which shall be signed by him.*

(10) *Notwithstanding anything contained in this section if no provision has been made in any submission for the appointment of an arbitrator or where by reason of the act of parties or any circumstances, the appointment of an arbitrator or an umpire is not possible, such dispute shall be referred to the arbitration of the court of arbitration.*

(11) *The arbitrator or the court shall certify the award made by him or it to the parties, to the Registrar and the Commissioner of Labour.*

(12) *The award shall come into force on the date stated in such award or where no such date is stated therein, on the date on which it is registered by the Registrar in the Register kept for this purpose.*

15. ~~[14.]~~ No notice of change under section 10 shall be given in respect of a matter settled— **Limitation on notice of change.**

(*a*) by an agreement or settlement within six months from its registration, and

(*b*) by an award, within a year from its registration, provided that by consent of both parties an agreement to modify any such agreement, settlement or award, may be registered at any time.

16. ~~[15.]~~ All proceedings before the Commissioner of Labour or a Conciliator or a Board or a Sole Arbitrator shall be confidential. Proceedings before a Court of Arbitration shall be public except where the Court directs its sittings to be *in camera*. **Nature of proceedings before Conciliator and Court.**

17. ~~[16.]~~ The Commissioner, an Assistant Commissioner, a Conciliator, every member of the Board of Conciliation and Sole Arbitrator and every member of the Court of Arbitration shall be deemed to be a public servant within the meaning of section 21, Indian Penal Code, as in force in Mysore. **Commissioner, Conciliator and member of Board to be public servants.**

18. ~~[17.]~~ Any person who wilfully refuses entry to the Commissioner to any place which he is entitled to enter under section 4 or who fails to produce any document which he is required to produce, or who fails to comply with any requisition or order issued to him by or under **Penalty for obstructing any person from carrying out his duties under this Act.**

the provisions of this Act shall, on conviction, be punishable with fine which may extend to rupees one hundred and in respect of a continuing failure, with an additional fine of rupees twenty-five per day for every day during which such failure continues after the last conviction for such failure.

Procedure before the Conciliator and Court

19. ~~[18.]~~ (1) In respect of every proceeding before them, the Conciliator, the Board of Conciliation, the Sole Arbitrator and the Court of Arbitration shall have the same powers as are vested in Courts under the Code of Civil Procedure, 1911, in respect of the following matters when trying a suit :—

(*a*) summoning and enforcing the attendance of any person and examining him on oath ;

(*b*) compelling the production of documents ;

(*c*) issuing commissions for the examination of witnesses ;

(*d*) proof of facts by affidavits ;

and shall have such further powers as may be prescribed.

(2) (*a*) Every proceeding before a Court of Arbitration shall be deemed to be a judicial proceeding within the meaning of sections 192, 193 and 228 of the Indian Penal Code, as in force in Mysore, and within the meaning of the Contempt of Courts Act, 1930.

(*b*) Parties before the Court of Arbitration may be represented by counsel.

(3) There shall be no award of costs in any proceeding under this Act.

Information furnished by a party to be treated as confidential.

20. ~~[19.]~~ (1) If a party to an industrial dispute giving any information or producing any document in any proceeding under this Act, makes a request in writing to the Conciliator, the Board, the Sole Arbitrator or the Court as the case may be, that such information or the contents of such document may be treated as confidential, the Conciliator, the Board or the Sole Arbitrator or the Court as the case may be, shall direct that such information or document be treated as confidential.

(2) The Conciliator or any member of the Board or Sole Arbitrator or Court or any person present at or concerned in any proceeding under this Act shall not disclose any information or the contents of any document in respect of which a request has been made under sub-section (1) without the consent in writing of the party making the request under the said sub-section.

(3) Nothing in this section shall apply to disclosure of any information or the contents of any document for the purpose of a prosecution under this Act or under any other law for the time being in force.

21. ~~[20.]~~ If a Conciliator or a member of a Board or Sole Arbitrator or Court or any person present at or concerned in any proceeding under this Act wilfully discloses any information or the contents of any document in contravention of this Act, he shall, on a complaint made by the party who gave the information or produced the document in such proceeding and on conviction, be punishable with fine which may extend to rupees one thousand. Penalty for disclosing confidential information.

22. ~~[21.]~~ (1) No employer shall make any change in any industrial matter in regard to which a standing order has been settled under section 9 or which is mentioned in Schedule II before the agreement referred in sub-section (3) of section 10 is arrived at or where no such agreement is arrived at before the conciliation proceedings are completed or in cases where the dispute is referred to arbitration, before the award has been given. Illegal changes.

(2) No employer shall make any such change in contravention of the terms of a registered agreement, a settlement or an award.

(3) Any change made in contravention of the provisions of sub-section (1) or (2) shall be illegal.

23. ~~[22.]~~ (1) Any employer who makes any illegal change shall, on conviction, be punishable with fine which may extend to rupees ~~[five thousand]~~ *two thousand and five hundred* and in the case of a continuing offence with an additional fine which may extend to rupees two hundred per day for every day during which the offence continues after his last conviction for such offence. Penalty for illegal changes.

(2) An employer who acts in contravention of a standing order settled under section 9 shall, on conviction, be punishable with fine which may extend to rupees one hundred and in the case of continuing contravention of such standing order, with an additional fine which may extend to rupees twenty-five per day for every day during which such contravention continues after his last conviction for such contravention.

Employer not to dismiss, reduce or punish an employee for being connected with an association.

24. [23.] (1) No employer shall dismiss or reduce any employee or punish him in any other manner by reason of the circumstance that the employee—

(a) is an officer or member of a registered association or of an association which has applied for being registered under this Act; or

(b) is entitled to the benefit of a registered agreement, settlement or award; or

(c) has appeared or intends to appear as a witness or has given evidence or intends to give evidence in a proceeding under this Act; or

(d) has gone on or joined a strike which is not illegal under the provisions of this Act.

(2) Whoever contravenes the provisions of sub-section (1) shall, on conviction, be punishable with fine which may extend to rupees one thousand.

(3) Where the offence is one of wrongful dismissal, the court shall direct that the employer shall pay the dismissed employee wages for the period he is kept out of employment, *up to the date of the final decision in the case*, based on his average wages for the twelve months preceding the date of dismissal.

(4) Where the offence is one of wrongful reduction or other punishment, the Court trying any offence under this section may direct that out of the fine recovered, such amount as it deems fit shall be paid to the employee concerned as compensation.

Illegal strikes and lock-outs.

25. [24.] A strike or a lock-out shall be illegal which has any object other than or in addition to the furtherance of an industrial dispute within the industrial undertaking in which the strikers or employer locking-out are engaged.

Illegal strikes.

[25. (1) A strike shall be illegal if it is commenced or continued—

(a) without giving notice in accordance with the provisions of section 10, and before the initiation of conciliation proceedings where an agreement is not arrived at;

(b) only for the reason that the employer has not carried out the provisions of any standing order or has made an illegal change;

(c) in cases where conciliation proceedings in regard to the industrial dispute to which the

strike relates have commenced, before the expiry of 14 days after the publication of the report;

(*a*) in cases where the dispute has been referred to arbitration, before an award has been given;

(*e*) in contravention of the terms of a registered agreement, settlement or award.

(2) In cases where conciliation proceedings in regard to any industrial dispute have been completed, a strike relating to such dispute shall be illegal if it is commenced at any time after the expiry of two months after the publication of the report.]

26. *A strike shall be illegal if it is commenced or continued—*

(a) *in contravention of the terms of a registered agreement or award;*

(b) *only for the reason that the employer has not carried out the provisions of any standing order or has made an illegal change;*

(c) *without giving notice in accordance with the provisions of section 10 and before the initiation of conciliation proceedings where an agreement is not arrived at;*

(d) *in cases where conciliation proceedings in regard to the industrial dispute to which the strike relates have commenced before the expiry of 14 days or after the expiry of two months from the publication of the report;*

(e) *in cases where the dispute has been referred to arbitration before an award has been given.*

[26. (1) A lock-out shall be illegal if it is declared, commenced or continued— Illegal lock-outs

(*a*) without giving notice in accordance with the provisions of section 10, and before the initiation of conciliation proceedings where an agreement is not arrived at;

(*b*) in cases where conciliation proceedings in regard to the industrial dispute to which the lock-out relates have commenced before the expiry of 14 days after the publication of the report;

(*c*) in cases where the dispute has been referred to arbitration, before an award has been given;

(*d*) in contravention of the terms of a registered agreement, settlement or award;

~~(2) In cases where conciliation proceedings in regard to any industrial dispute have been completed, a lock-out relating to such dispute shall be illegal if it is commenced at any time after the expiry of two months after the publication of the report.]~~

27. A lock-out shall be illegal if it is declared, commenced or continued—

(a) *in contravention of the terms of a registered agreement, settlement or award;*

(b) *without giving notice in accordance with the provisions of section 10 and before the initiation of conciliation proceedings where an agreement is not arrived at;*

(c) *in cases where conciliation proceedings in regard to the industrial dispute to which the lock-out relates has commenced before the expiry of 14 days or after the expiry of two months after the publication of the report;*

(d) *in cases where the dispute has been referred to arbitration before an award has been gived.*

28. *A Registrar shall, on the written application of an employer or a Registered Association, declare within three days thereafter that a strike or lock-out is legal or illegal as the case may be.*

Penalty for declaring an illegal lock-out.

29. ~~[27.]~~ Any employer who has declared a lock-out and continues it after it has been declared by the Registrar to be illegal shall, on conviction, be punishable with fine which may extend to rupees two thousand and five hundred and shall, in addition, be directed by the Court to pay the employees kept out of employment by such lock-out, wages for the period they are so kept out, based on the average earned by each employee during the twelve months preceding the commencement of the lock-out.

(2) *In a prosecution under this section, it shall be a valid defence that the lock-out was not illegal under the Act.*

Penalty for declaring or commencing an illegal strike.

30. ~~[28.]~~ Any employee who has gone on strike and continues to be on strike or who joins a strike, after it has been declared by the Registrar to be illegal shall, on conviction, be punishable with imprisonment of either description for a term which may extend to 15 days or fine which may extend to rupees twenty-five and in the case of a continuing offence with an additional

fine which may extend to rupee one per day for every day during which the offence continues after his last conviction for such offence subject to a maximum of rupees fifty.

(2) *In a prosecution under this section it shall be a valid defence that the strike was not illegal under the Act.*

Penalty for instigation, etc., of illegal strikes and lock-outs.

31. ~~[29.]~~ (*a*) If any person instigates or incites others to take part in, or otherwise acts in furtherance of, a strike or lock-out which is declared to be illegal by the Registrar, whether such strike or lock-out has commenced or not, he shall, on conviction, be punishable with imprisonment of either description for a term which may extend to three months, or with fine or with both.

which may extend to rupees twenty five

Explanation.—For the purpose of this section, a person who contributes, collects or solicits funds for the purpose of any such strike or lock-out shall be deemed to act in furtherance thereof.

(*b*) Any person who instigates or incites an employer or an employee to secure relief in respect of an industrial matter, otherwise than through the provisions of this Act shall, on conviction, be punishable with imprisonment of either description for a term which may extend to three months or with fine or with both.

which may extend to rupees five hundred

32. *Any person who has attained the age of 15 years may be a member of a registered association subject to any rules of the association to the contrary and may, subject as aforesaid, enjoy all the rights of a member and execute all instrument and give all acquittances necessary to be executed or given under the rules:*

Provided that no person who has not attained the age of 18 years shall be a member of the executive of any such association.

Liability of the executive of an association.

33. ~~[30.]~~ Where anything is required to be done by any association by or under any provision of this Act, the person authorised in this behalf by the executive of the association or if no person is so authorised, every member of the executive of the association shall be bound to do the same and shall be personally liable if default is made in the doing of any such thing.

Explanation.—For the purpose of this section, executive of an association means the body by whatever name called to which the management of the affairs of the association is entrusted.

Certain Acts not to apply to associations.

34. The following Acts, namely,

(a) The Societies Registration Act, 1904,
(b) The Mysore Co-operative Societies Act, 1918
(c) The Mysore Companies Act, 1938, and
(d) The Insurance Act, 1939,

shall not apply to any Registered Association, and the registration of any association of industrial employees under any such Act, shall be void.

35. No association of employees other than those registered under this Act shall be recognised or permitted to be represented in any proceedings under this Act.

Persons acting in good faith not to be sued.

36. No suit or proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Immunity from civil suit in certain cases.

37. (1) No suit or other legal proceeding shall be maintainable in any Civil Court against any Registered Association or any officer or member thereof in respect of any act done in contemplation or furtherance of an industrial dispute to which a member of the association is a party on the ground only that such act induces some other person to break a contract of employment, or that it is in interference with the industry, business or employment of some other person or with the right of some other person to dispose of his capital or of his labour as he wills.

(2) A Registered Association shall not be liable in any suit or other legal proceeding in any Civil Court in respect of any tortuous act done in contemplation or furtherance of an industrial dispute by an agent of the association if it is proved that such person acted without the knowledge of, or contrary to express instructions given by the executive of the association.

38. Notwithstanding anything contained in any other law for the time being in force, an agreement between the members of a Registered Association shall not be void or voidable merely by reason of the fact that any of the objects of the agreement are in restraint of trade :

Provided that nothing in this section shall enable any Civil Court to entertain any legal proceeding instituted for the express purpose of enforcing or recovering damages for the breach of any agreement concerning the conditions on which any member of an association shall or shall not work, or be employed.

Criminal

39. ~~[36.]~~ No Court inferior to that of a Magistrate of the First Class shall try offences under this Act. Jurisdiction of Courts.

40. ~~[37.]~~ (1) The Government may make rules to carry out the purposes of this Act. Rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may be made for all or any of the following matters, namely,—

(*a*) the form in which the certificate of registration may be issued;
(*b*) the constitution of a Board or Court and the qualifications for a Special Conciliator, or member of a Board or of the Court;
(*c*) the fee to be paid on applications under this Act;
(*d*) the manner in which the total number of employees is to be computed for the purposes of this Act;
(*e*) the other powers of the several authorities under section ~~[18]~~ 19;
(*f*) the manner in which standing orders may be submitted under section 9;
(*g*) the form in which notice of change is to be given and the persons to whom copies of such notice are to be sent under section 10;
(*h*) the form in which a statement of the case is to be forwarded to a Special Conciliator, Board or Court or Sole Arbitrator;
(*i*) the procedure to be followed by the several authorities under this Act;
(*j*) the registers to be maintained by the employer, and the returns and the information to be periodically furnished by him to the Commissioner of Labour or to other authorities for the purposes of this Act;
(*k*) the officers to be deemed as employers in respect of industrial undertakings owned by the Government; and
(*l*) the form in which the memorandum of agreement, settlement or the award shall be drawn up and the manner in which it shall be recorded and published by the Registrar

(3) The Government may also prescribe a fine not exceeding rupees one hundred for a breach of any such rule.

(4) The rules made under this section shall be subject to the condition of previous publication in the official Gazette.

Repeal and Savings.

41. [38.] The Mysore Labour (Emergency) Act, 1941, is hereby repealed. But any rules made, anything done and any action taken in exercise of any power conferred by or under the said Emergency Act shall be deemed to have been made, done or taken, in exercise of powers conferred by or under this Act as if this Act had commenced on the 26th day of August 1941.

42. *In any case of public emergency the Government, may, by notification in the official Gazette, exempt any employer from the requirement of sub-section (1) of Section 10 and of sub-section (1) of Section 22 of this Act in respect of item 3 and item 5 (so far as it relates to total weekly hours of work) of Schedule II; provided that such exemption shall be in force only for the period covered by an exemption notified under Section 8 of the Mysore Factories Act, 1936.*

SCHEDULE I.

SECTION 9.

1. Classification of employees, *e.g.*, permanent temporary, apprentices, probationers, etc.
2. Manner of notification to employees of periods and hours of work, holidays, pay days and wage rates.
3. Shift working.
4. Attendance and late coming.
5. Leave and holidays, conditions, procedure and authority to grant.
6. Liability to search and entry into premises by certain gates.
7. Temporary stoppages of work and rights and liabilities of employers and employees arising therefrom.
8. Termination of employment. Notices to be given by employer and employee.
9. Punishment for misconduct and the acts or omissions which constitute misconduct.
10. Means of redress for employees against unfair treatment or wrongful exaction on the part of the employer or his agent or servant.
11. Rules of discipline.

SCHEDULE II.

SECTION 10.

1. Reduction intended to be of permanent or semi-permanent character in the number of persons employed or to be employed not due to *force majeure*.
2. Introduction of rationalisation, efficiency or other new systems of work.
3. Starting, alteration or discontinuance of shift working otherwise than in accordance with the standing orders.
4. Withdrawal of any customary concession or privilege or change in usage.
5. Wages and total weekly hours of work.

~~Printed by the Superintendent at the Government Press, Bangalore.~~

Bill as passed by the Legislative Council on the 24th Decem' 19..

P. H. Chandrasekharaiya
President
27/12/41.
For Legislative Council.

Act no XIII of 1942

Press
Please convert an italics to ordinary type.

~~NOTIFICATION.~~

THE MYSORE LABOUR ~~BILL.~~ Act, 1942

~~As amended by the Select Committee.~~

~~(Omissions are enclosed in square brackets and are in italics.)~~

(Received the assent of His Highness the Maharaja on the by 2 January 1942)

[~~WHEREAS~~ it is expedient to make provision for the promotion of peaceful and amicable ~~settlement~~ of industrial disputes by conciliation ~~and arbitration~~ and the organisation of industrial ~~employees~~ into associations to secure their ~~welfare~~, and for certain other purposes hereinafter provided;

~~It is hereby enacted as follows:—]~~

WHEREAS it is expedient to make provision for the organisation of industrial employees into associations to secure their welfare, for the promotion of peaceful and amicable settlement of industrial disputes by conciliation and arbitration, and for certain other purposes hereinafter provided;

It is hereby enacted as follows:—

Short title, commencement, extent and application.

1. (1) This Act may be called the Mysore Labour Act, 1942.

(2) This section shall come into force at once. The Government may, by notification in the official Gazette, apply all or any of the other provisions of this Act from such date as may be specified in the notification.

(3) It extends to the whole of Mysore.

(4) It shall apply to all industrial undertakings, whether owned by a person or by the Government or by a local authority.

Recognition of association of employees.

2. (1) The right of employees in an industrial undertaking to combine into an association for the promotion of their common interests is hereby recognised and declared:

Provided that there shall be only one Association of employees in respect of an industrial undertaking.

(2) The Government may, ~~[on the recommendation of the Commissioner of Labour]~~, extend this right to employees in small industrial undertakings engaged in work of the same nature in any local area or to employees in industrial undertakings engaged in work of the same nature located in different areas.

Definitions.

3. In this Act, unless there is anything repugnant in the subject or context,—

(1) "Award means any interim or final determination in an arbitration proceeding under this Act

(2) "Board" means the Board of Conciliation appointed under this Act;

(3) "Change" means a change in any industrial matter;

(4) "Commissioner of Labour" includes an Assistant Commissioner of Labour;

(5) "Conciliation Proceeding" means any proceeding held by a Conciliator or the Board under this Act;

(6) "Conciliator" means any Conciliator appointed under this Act and includes the Chief Conciliator or a Special Conciliator

(7) "Court" means a court of arbitration appointed under this Act;

(8) "Employee" means any person employed to do any skilled or unskilled manual or clerical work for hire or reward in any industry and includes, for the purposes of any proceedings under this Act in relation to any industrial dispute, an employee discharged on account of such dispute relating to a change in respect of which a notice is given under section 10 whether before or after the discharge;

(9) "Employer" includes

(*a*) any agent of an employer

(*b*) where an industry is conducted or carried on by a department of the Government, the authority prescribed in that behalf, and where no such authority has been prescribed, the head of such department

where an industry is conducted or carried on by or on behalf of a local authority, the Chief Executive Officer of such authority

or

(*d*) where the owner of any industry, in the course or for the purpose of conducting such industry, contracts with any other person for the execution by or under the contractor of the whole or any part of any work which is ordinarily part of the said industry, the owner of such industry;

(10) "Industrial Dispute" means any dispute or difference between an employer and employee or employees, which is connected with any industrial matter;

(11) "Industrial Matter" means any matter relating to work, pay, wages, reward, hours of work, privileges, rights or duties of employers or employees, or the mode, terms and conditions of employment or non-employment and includes—

(a) all matters pertaining to the relationship between employers and employees, or to the dismissal or non-employment of any person;

(b) all matters as to the demarcation of functions of any employees or classes of employees;

(c) all matters pertaining to any right or claim under or in respect of or concerning an agreement, settlement or award made under this Act, and

(d) all questions of what is fair and right in relation to any industrial matter having regard to the interest of the person immediately concerned and of the community as a whole;

(12) "Industrial Undertaking" means a unit of industry under one employer in the same city, town or village;

(13) "Industry" includes—

(a) any business, trade, manufacture or undertaking or calling of employers; and

(b) any calling, service, employment, handicraft or industrial occupation or avocation of employees;

(14) "Local Area" means an area notified as such by the Government;

(15) "Lock-out" means the closing of a place or part of a place of employment or the total or partial suspension of work by an employer or the total or partial refusal by an employer to continue to employ persons employed by him, where such closing, suspension or refusal occurs in consequence of an industrial dispute and is intended for the purpose of compelling those persons or of aiding another employer in compelling persons employed by him to accept any term or condition of or affecting employment:

(16) "Member" means a person who is an ordinary member of an association and who is paying subscription of not less than one anna per month and the term "membership" shall be construed accordingly, and shall include an honorary member holding an office in the association;

(17) "Prescribed" means prescribed by rules made under this Act;

(18) "Registered Association" means an association of employees registered under this Act;

(19) "Registered Agreement" means an agreement registered under section 10

(20) "Registrar" means the Registrar of Associations appointed under this Act

(21) "Schedule" means a schedule appended to this Act;

(22) "Settlement" means a settlement arrived at during the course of a conciliation proceeding; and

(23) "Strike" means a total or partial cessation of work by employees employed in an industry acting in combination or a concerted refusal or a refusal under a common understanding of employees to continue to work or to accept work where such cessation or refusal is in consequence of an industrial dispute in any industry and is intended for the purpose of compelling any employer to accept any term or condition of or affecting employment.

Commissioner of Labour: his powers.

4. (1) The Government shall appoint a person as Commissioner of Labour whose jurisdiction shall extend throughout Mysore.

(2) The Government may also appoint for any local area or otherwise one or more Assistant Commissioners of Labour, who shall exercise such of the powers and perform such of the duties of the Commissioner as may be delegated by him, and subject to his control and supervision.

(3) For the purpose of exercising his powers and performing his duties, the Commissioner may, after giving reasonable notice, enter any place used for the purpose of any industry or as the office of any Registered Association and shall be entitled to call for and inspect all relevant documents which are necessary for the due discharge of his duties and powers under this Act. The Commissioner may for the same purpose enter, after giving reasonable notice, any premises provided by an employer for the purpose of residence of his employees.

(4) All particulars contained in or information obtained from any document inspected or called for under sub-section (3) shall, if the person in whose possession the document was, so requires, be treated as confidential.

(5) The Commissioner shall be entitled to appear in any proceeding under the Act and also to attend meetings of Registered Associations.

Commissioner's duties.

5. It shall be the duty of the Commissioner to help in organising association of employees in each industrial undertaking employing not less than 100 ~~[workmen,]~~ *employees* and to assist ~~[and guide]~~ the officers of Registered Associations in the discharge of their duties and in developing the work of such associations.

Registrar of Associations.

6. (1) The Government shall appoint an officer to be Registrar of Associations for Mysore.

(2) He shall maintain a Register of Associations and such other registers as may be prescribed.

(3) On receipt of an application from an association of employees for registration and on payment of the prescribed fee, the Registrar shall, if he is satisfied that the association fulfils the prescribed conditions, register the association and issue a certificate of registration.

(4) Every such Registered Association shall be a body corporate by the name under which it has been registered and shall have perpetual succession and a common seal with power to acquire and hold both movable and immovable property and to contract, and shall by the said name sue and be sued.

Provisions to be contained in the rules of an association.

7. An association shall not be entitled to registration under this Act unless the executive thereof is constituted in accordance with the provisions of this Act, and the rules thereof provide for the following matters, namely,—

(*a*) the name of the association ;

(*b*) the whole of the objects for which the association has been established :

(*c*) the whole of the purposes for which the general funds of the association shall be applicable, all of which purposes shall be purposes to which such funds are lawfully applicable under this Act ;

(*d*) the maintenance of a list of the members of the association and adequate facilities for the inspection thereof by the officers and members of the association ;

(*e*) the admission of ordinary members who shall be members actually engaged or employed in the industrial

undertaking concerned and also the condition for the admission of honorary members as officers: provided that not more than two such members shall be so admitted into any association and provided further that no one shall be an honorary member of more than one association at the same time;

(*f*) the conditions under which any member shall be entitled to any benefit assured by the rules and under which any fine or forfeiture may be imposed on the members;

(*g*) the manner in which the rules shall be amended, varied or rescinded

(*h*) the manner in which the members of the executive and the other officers of the association shall be appointed and removed;

(*i*) the safe custody of the funds of the association, an annual audit in such manner as may be prescribed, of the accounts thereof and adequate facilities for the inspection of the account-books by the officers and members of the association

(*j*) the manner in which the association may be dissolved; and

(*k*) the procedure to be followed before the association can call a strike including a secret ballot of the members and the minimum votes necessary.

Funds may be spent.

8. The general funds of a registered Association shall not be spent on any other objects than the following, namely,—

(*a*) the payment of salaries, allowances and expenses to officers of the association

(*b*) the payment of expenses for the administration of the association, including audit of the accounts of the general funds of the association;

(*c*) the prosecution or defence of any legal proceeding to which the association or any member thereof is a party, when such prosecution or defence is undertaken for the purpose of securing or protecting any rights of the association as such or any rights arising out of the relations of any member with his employer;

(*d*) the conduct of labour disputes on behalf of the association or any member thereof;

(*e*) the compensation of members for loss arising out of labour disputes;

(*f*) allowances to members or their dependents on account of death, old age, sickness, accidents or unemployment of such members;

(*g*) the provision of educational or social benefits for members (including the payment of the expenses of funeral or religious ceremonies for deceased members)

(*h*) *the payment of expenses in connection with the election of representatives of labour provided by statute for the Houses of Legislature and local bodies in Mysore not exceeding a sum of Rs. 100 in each case;*

i) ~~[(h)]~~ subject to any conditions contained in the notification, any other object notified by the Government in the official Gazette.

Standing orders regarding industrial matters.

9. (1) Within three months after the commencement of the Act, the employer in respect of every industrial undertaking employing not less than 100 ~~[workmen]~~ *employees* shall furnish the Commissioner with a statement of standing orders regulating the relations between him and his employees in respect of matters specified in Schedule I of this Act and simultaneously furnish a copy of the same in English and Kannada to the Registered Association of employees in his concern.

(2) The association shall submit to the Commissioner within 15 days of such receipt any points objected to by them as inconsistent with existing practice. The Commissioner shall thereupon hold a summary enquiry on such points, settle the standing orders as found by him and furnish both to the employer and to the association a copy of the standing orders as settled by him.

(3) An appeal shall lie to the Court of Arbitration from the order of settlement of the standing orders by the Commissioner, provided that such appeal is preferred within 15 days from the date of the settlement exclusive of the time required for obtaining a copy thereof.

(4) The Commissioner or the Court of Arbitration, as the case may be, shall send a copy of the standing orders settled or of the award made under the preceding sub-sections to the Registrar for registering it in a Register of Standing Orders and Agreements.

(5) The standing orders settled by the Commissioner under sub-section (2) or the award made by the Court of Arbitration under sub-section (3), as the case may be, shall be determinative of the relations between the employer and his employees in all matters included therein.

Employers or employees desiring change in standing orders and other industrial matters to give notice.

10 (1) An employer intending to effect any change in any standing order settled under section 9 or in respect of an industrial matter mentioned in Schedule II shall give notice of such intention in the prescribed form to the Registered Association. He shall send a copy of such notice to the Commissioner of Labour, the Chief Conciliator, the Registrar, and to such other person as may be prescribed. He shall also affix a copy of such notice at a conspicuous place in the premises where the employees affected by the change are employed for work and at such other place as may be directed by the Chief Conciliator in any case.

(2) A Registered Association desiring a change in any such standing order or in respect of any other industrial matter shall give notice in the form prescribed to the employer and shall also forward a copy of the notice to the Commissioner of Labour, the Chief Conciliator, the Registrar, and to such other person as may be prescribed.

(3) The Commissioner shall ascertain within 15 days after the receipt of such notice whether the proposed change is mutually agreed to between the employer and the Association and if so agreed to, send a copy relating to the change to the Registrar for registering it in the Register of Agreements and inform both parties. ~~[In case of disagreement within 15 days]~~ *In case of agreement not being reached within fifteen days,* he shall report to the Chief Conciliator for initiating conciliation proceedings under this Act.

(4) The employer and the Registered Association shall maintain records of all negotiations with each other, and shall produce such records when called upon to do so during any subsequent proceedings under the Act.

Conciliators and Board of Conciliation.

11. (1) The Registrar of Associations shall be *ex-officio* Chief Conciliator in Mysore.

(2) The Government may, on the recommendation of the Chief Conciliator, appoint a Special Conciliator in respect of any dispute.

(3) During the pendency of any proceedings before the Conciliator under the foregoing provisions, the Government may, and if both the parties agree, either prior to the commencement of such proceedings or after the failure of the Conciliator to bring about a settlement, shall refer the dispute to a Board of Conciliation consisting of three independent persons.

12. (1) The Conciliator or the Board shall conclude the enquiry within one month of the initiation of conciliation proceedings or the appointment of the Board, as the case may be. **Conciliation proceedings.**

(2) If a settlement be reached in the conciliation proceedings, the Conciliator or the Chairman of the Board shall send a report of proceedings with a copy of the memorandum of settlement to the Registrar and to both the parties.

(3) The Registrar shall record the settlement in the Register of Agreements.

(4) Where the parties do not come to a settlement, the Conciliator or the Board shall submit a report to Government through the Chief Conciliator and such report shall be published in the official Gazette not later than the second issue after the date of receipt of the report.

~~[13.] [(1) The Government may constitute a Court of Arbitration for determining industrial disputes.]~~ **Court of Arbitration and proceedings in Arbitration.**

13. (1) The Government may constitute a court of arbitration.

(2) It shall be the duty of the court of arbitration—

(i) *to decide appeals from the orders of the Commissioner of Labour regarding standing orders;*

(ii) *to decide industrial disputes in accordance with the submissions which are registered and which provide for reference to the court of arbitration;*

(iii) *to decide industrial disputes referred to it under the Act;*

(iv) *to decide such other matters as may be referred to it under the Act or the rules.*

(3) ~~[(2)]~~ At any time during the progress of the iliation proceedings, *or thereafter* the employer and the association concerned may jointly apply to the Chief Conciliator for referring the point in dispute to arbitration, forthwith.

(4) ~~[(3)]~~ The Chief Conciliator shall thereupon submit the application to the Government who shall refer it to the Court of Arbitration or to the Sole Arbitrator, if one is mentioned in the application.

(5) ~~[(4)]~~ The Court of Arbitration or the Sole Arbitrator shall certify its or his award to the Registrar and to the parties in dispute.

(6) ~~[(5)]~~ The Registrar shall record the Award in the Register of Agreements.

(7) ~~[(6)]~~ The Award shall be binding on the parties to the dispute and on their successors and assigns and shall not be called in question in any civil or Criminal Court or other judicial proceedings.

14. (1) *An employer and a registered association may by a written agreement agree to submit any present or future industrial dispute or any classes of such dispute to arbitration of any person whether such arbitrator is named in such agreement or not. Such agreement shall be called a submission.*

(2) *Any such agreement arrived at before the coming into force of this Act between an employer and an association shall also be deemed to be a submission.*

(3) *Such submission may provide that the dispute shall be referred to the court of arbitration.*

(4) *A copy of every such submission shall be sent to the Registrar who shall register it in a register to be maintained for this purpose.*

(5) *In the absence of an agreement to the contrary, every such submission shall be irrevocable: Provided that the submission to refer future disputes to arbitration may at any time be revoked by either of the parties to such submission by giving the other party three months notice in writing*

Provided further that before the expiry of the said period of three months, the parties may agree to continue the submission for such further period as may be agreed upon between them.

(6) *The proceedings in arbitration under this section shall be in accordance with the provisions of* ~~*Schedule II of the Code of Civil Procedure, 1911*~~, *in so far as they are applicable and the powers which are exercisable by a Civil Court under the said provision shall be exercisable by the court of arbitration.*

(7) *No conciliation proceedings shall be commenced in respect of any dispute if the majority of the employees directly affected by such dispute are members of the registered association which is a party to a submission relating to such dispute.*

(8) *The arbitrator may refer any matter in which a decision on any question of law is required to the court of arbitration for its decision. Any award made by the arbitrator shall be in accordance with such decision.*

(9) *The arbitrator shall, after hearing the parties concerned, make an award which shall be signed by him.*

(10) *Notwithstanding anything contained in this section if no provision has been made in any submission for the appointment of an arbitrator or where by reason of the act of parties or any circumstances, the appointment of an arbitrator or an umpire is not possible, such dispute shall be referred to the arbitration of the court of arbitration.*

(11) *The arbitrator or the court shall certify the award made by him or it to the parties, to the Registrar and the Commissioner of Labour.*

(12) *The award shall come into force on the date stated in such award or where no such date is stated therein, on the date on which it is registered by the Registrar in the Register kept for this purpose.*

15. ~~[14.]~~ No notice of change under section 10 shall be given in respect of a matter settled— Limitation on notice of change.

(*a*) by an agreement or settlement within six months from its registration, and

(*b*) by an award, within a year from its registration, provided that by consent of both parties an agreement to modify any such agreement, settlement or award, may be registered at any time.

16. ~~[15.]~~ All proceedings before the Commissioner of Labour or a Conciliator or a Board or a Sole Arbitrator shall be confidential. Proceedings before a Court of Arbitration shall be public except where the Court directs its sittings to be *in camera*. Nature of proceedings before Conciliator and Court.

17. ~~[16.]~~ The Commissioner, an Assistant Commissioner, a Conciliator, every member of the Board of Conciliation and Sole Arbitrator and every member of the Court of Arbitration shall be deemed to be a public servant within the meaning of section 21, Indian Penal Code, as in force in Mysore. Commissioner, Conciliator and member of Board to be public servants.

18. ~~[17.]~~ Any person who wilfully refuses entry to the Commissioner to any place which he is entitled to enter under section 4 or who fails to produce any document which he is required to produce, or who fails to comply with any requisition or order issued to him by or under Penalty for obstructing any person from carrying out his duties under this Act.

the provisions of this Act shall on conviction, be punishable with fine which may extend to rupees one hundred and in respect of a continuing failure, with an additional fine of rupees twenty-five per day for every day during which such failure continues after the last conviction for such failure.

edur before the Conciliator and Court.

19. [18] (1) In respect of every proceeding before them, the Conciliator, the Board of Conciliation, the Sole Arbitrator and the Court of Arbitration shall have the same powers as are vested in Courts under the Code of Civil Procedure, 1911, in respect of the following matters when trying a suit

(*a*) summoning and enforcing the attendance of any person and examining him on oath;

(*b*) compelling the production of documents;

(*c*) issuing commissions for the examination of witnesses;

(*d*) proof of facts by affidavits;

and shall have such further powers as may be prescribed.

(2) (*a*) Every proceeding before a Court of Arbitration shall be deemed to be a judicial proceeding within the meaning of sections 192, 193 and 228 of the Indian Penal Code, as in force in Mysore, and within the meaning of the Contempt of Courts Act, 1930.

(*b*) Parties before the Court of Arbitration may be represented by counsel.

(3) There shall be no award of costs in any proceeding under this Act.

Information furnished by a party to be treated as confidential.

20. [19] (1) If a party to an industrial dispute giving any information or producing any document in any proceeding under this Act, makes a request in writing to the Conciliator, the Board, the Sole Arbitrator or the Court, as the case may be, that such information or the contents of such document may be treated as confidential, the Conciliator, the Board or the Sole Arbitrator or the Court, as the case may be, shall direct that such information or document be treated as confidential.

(2) The Conciliator or any member of the Board or Sole Arbitrator or Court or any person present at or concerned in any proceeding under this Act shall not disclose any information or the contents of any document in respect of which a request has been made under sub-section (1) without the consent in writing of the party making the request under the said sub-section.

(3) Nothing in this section shall apply to disclosure of any information or the contents of any document for the purpose of a prosecution under this Act or under any other law for the time being in force.

Penalty for disclosing confidential information

21. ~~[20.]~~ If a Conciliator or a member of a Board or Sole Arbitrator or Court or any person present at or concerned in any proceeding under this Act wilfully discloses any information or the contents of any document in contravention of this Act, he shall, on a complaint made by the party who gave the information or produced the document in such proceeding and on conviction, be punishable with fine which may extend to rupees one thousand.

Illegal changes.

22. ~~[21.]~~ (1) No employer shall make any change in any industrial matter in regard to which a standing order has been settled under section 9 or which is mentioned in Schedule II before the agreement referred in sub-section (3) of section 10 is arrived at or where no such agreement is arrived at before the conciliation proceedings are completed or in cases where the dispute is referred to arbitration, before the award has been given.

(2) No employer shall make any such change in contravention of the terms of a registered agreement, a settlement or an award.

(3) Any change made in contravention of the provisions of sub-section (1) or (2) shall be illegal.

Penalty for illegal changes.

23. ~~[22.]~~ (1) Any employer who makes any illegal change shall, on conviction, be punishable with fine which may extend to rupees ~~[five thousand]~~ *two thousand and five hundred* and in the case of a continuing offence with an additional fine which may extend to rupees two hundred per day for every day during which the offence continues after his last conviction for such offence

(2) An employer who acts in contravention of a standing order settled under section 9 shall, on conviction, be punishable with fine which may extend to rupees one hundred and in the case of continuing contravention of such standing order, with an additional fine which may extend to rupees twenty-five per day for every day during which such contravention continues after his last conviction for such contravention.

Employer not to dismiss, reduce or punish an employee for being connected with an association.

24 ~~[23.]~~ (1) No employer shall dismiss or reduce any employee or punish him in any other manner by reason of the circumstance that the employee

(a) is an officer or member of a registered association or of an association which has applied or being registered under this Act ; or

(b) is entitled to the benefit of a registered agreement, settlement or award ; or

(c) has appeared or intends to appear as a witness or has given evidence or intends to give evidence in a proceeding under this Act ; or

(d) has gone on or joined a strike which is not illegal under the provisions of this Act.

(2) Whoever contravenes the provisions of sub-section (1) shall, on conviction, be punishable with fine which may extend to rupees one thousand.

(3) Where the offence is one of wrongful dismissal, the Court shall direct that the employer shall pay the dismissed employee wages for the period he is kept out of employment, *up to the date of the final decision in the case*, based on his average wages for the twelve months preceding the date of dismissal.

(4) Where the offence is one of wrongful reduction or other punishment, the Court trying any offence under this section may direct that out of the fine recovered, such amount as it deems fit shall be paid to the employee concerned as compensation.

Illegal strikes and lock-outs.

25. ~~[24.]~~ A strike or a lock-out shall be illegal which has any object other than or in addition to the furtherance of an industrial dispute within the industrial undertaking in which the strikers or employer locking-out are engaged.

~~Illegal strikes.~~

~~25. (1) A strike shall be illegal if it is commenced or continued—~~

~~(a) without giving notice in accordance with the provisions of section 10, and before the initiation of conciliation proceedings where an agreement is not arrived at ;~~

~~(b) only for the reason that the employer has not carried out the provisions of any standing order or has made an illegal change ;~~

~~(c) in cases where conciliation proceedings in regard to the industrial dispute to which the~~

strike relates have commenced, before the expiry of 14 days after the publication of the report;

(*d*) in cases where the dispute has been referred to arbitration, before an award has been given;

(*e*) in contravention of the terms of a registered agreement, settlement or award.

(2) In cases where conciliation proceedings in regard to any industrial dispute have been completed, a strike relating to such dispute shall be illegal if it is commenced at any time after the expiry of two months after the publication of the report.]

26. *A strike shall be illegal if it is commenced or continued—* Illegal strikes

(a) *in contravention of the terms of a registered agreement or award;*

(b) *only for the reason that the employer has not carried out the provisions of any standing order or has made an illegal change;*

(c) *without giving notice in accordance with the provisions of section 10 and before the initiation of conciliation proceedings where an agreement is not arrived at;*

(d) *in cases where conciliation proceedings in regard to the industrial dispute to which the strike relates have commenced before the expiry of 14 days or after the expiry of two months from the publication of the report;*

(e) *in cases where the dispute has been referred to arbitration before an award has been given.*

~~26.~~ (1) A lock-out shall be illegal if it is declared, commenced or continued— ~~Illegal~~ lock-outs

(*a*) without giving notice in accordance with the provisions of section 10, and before the initiation of conciliation proceedings where an agreement is not arrived at;

(*b*) in cases where conciliation proceedings in regard to the industrial dispute to which the lock-out relates have commenced before the expiry of 14 days after the publication of the report;

(*c*) in cases where the dispute has been referred to arbitration, before an award has been given;

(*d*) in contravention of the terms of a registered agreement, settlement or award.

~~(2) In cases where conciliation proceedings in regard to any industrial dispute have been completed, a lock-out relating to such dispute shall be illegal if it is commenced at any time after the expiry of two months after the publication of the report.]~~

27. A lock-out shall be illegal if it is declared, commenced or continued—

(a) *in contravention of the terms of a registered agreement, settlement or award;*

(b) *without giving notice in accordance with the provisions of section 10 and before the initiation of conciliation proceedings where an agreement is not arrived at;*

(c) *in cases where conciliation proceedings in regard to the industrial dispute to which the lock-out relates has commenced before the expiry of 14 days or after the expiry of two months after the publication of the report;*

(d) *in cases where the dispute has been referred to arbitration before an award has been gived.*

28. *A Registrar shall, on the written application of an employer or a Registered Association, declare within three days thereafter that a strike or lock-out is legal illegal as the case may be.*

Penalty for declaring an illegal lock-out

29. ~~[27.]~~ Any employer who has declared a lock-out and continues it after it has been declared by the Registrar to be illegal shall, on conviction, be punishable with fine which may extend to rupees two thousand and five hundred and shall, in addition, be directed by the Court to pay the employees kept out of employment by such lock-out, wages for the period they are so kept out, based on the average earned by each employee during the twelve months preceding the commencement of the lock-out.

(2) *In a prosecution under this section, it shall be a valid defence that the lock-out was not illegal under the Act.*

Penalty for declaring or commencing an illegal strike.

30. ~~[28.]~~ Any employee who has gone on strike and continues to be on strike or who joins a strike, after it has been declared by the Registrar to be illegal shall, on conviction, be punishable with imprisonment of either description for a term which may extend to 15 days or fine which may extend to rupees twenty-five and in the case of a continuing offence with an additional

fine which may extend to rupee one per day for every day during which the offence continues after his last conviction for such offence subject to a maximum of rupees fifty.

(2) *In a prosecution under this section it shall be a valid defence that the strike was not illegal under th Act.*

Penalty for instigation, etc., of illegal strikes and lock-outs.

31. ~~[29.]~~ (*a*) If any person instigates or incites others to take part in, or otherwise acts in furtherance of, a strike or lock-out which is declared to be illegal by the Registrar, whether such strike or lock-out has commenced or not, he shall, on conviction, be punishable with imprisonment of either description for a term which may extend to three months, or with fine or with both. which may extend to rupees twenty five

Explanation.—For the purpose of this section, a person who contributes, collects or solicits funds for the purpose of any such strike or lock-out shall be deemed to act in furtherance thereof.

(*b*) Any person who instigates or incites an employer or an employee to secure relief in respect of an industrial matter, otherwise than through the provisions of this Act shall, on conviction, be punishable with imprisonment of either description for a term which may extend to three months or with fine or with both. which may extend to rupees five hundred

32. *Any person who has attained the age of 15 years may be a member of a registered association subject to any rules of the association to the contrary and may, subject as aforesaid, enjoy all the rights of a member and execute all instrument and give all acquittances necessary to be executed or given under the rules:*

Provided that no person who has not attained the age of 18 years shall be a member of the executive of any such association.

Liability of the executive of an association.

33. ~~[30.]~~ Where anything is required to be done by any association by or under any provision of this Act, the person authorised in this behalf by the executive of the association or if no person is so authorised, every member of the executive of the association shall be bound to do the same and shall be personally liable if default is made in the doing of any such thing.

Explanation.—For the purpose of this section, executive of an association means the body by whatever name called to which the management of the affairs of the association is entrusted.

Certain Act not to apply to associations.

The following Acts, namely,—

(a) The Societies Registration Act, 1904
(b) The Mysore Co-operative Societies Act, 1918
(c) The Mysore Companies Act, 1938, and
(d) The Insurance Act, 1939,

shall not apply to any Registered Association, and the registration of any association of industrial employees under any such Act, shall be void.

35. [32.] No association of employees other than those registered under this Act shall be recognised or permitted to be represented in any proceedings under this Act.

Persons acting in good faith not to be sued.

36. [33.] No suit or proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act

Immunity from civil suit in certain cases.

37. [34.] (1) No suit or other legal proceeding shall be maintainable in any Civil Court against any Registered Association or any officer or member thereof in respect of any act done in contemplation or furtherance of an industrial dispute to which a member of the association is a party on the ground only that such act induces some other person to break a contract of employment, or that it is in interference with the industry, business or employment of some other person or with the right of some other person to dispose of his capital or of his labour as he wills.

(2) A Registered Association shall not be liable in any suit or other legal proceeding in any Civil Court in respect of any tortuous act done in contemplation or furtherance of an industrial dispute by an agent of the association if it is proved that such person acted without the knowledge of, or contrary to express instructions given by the executive of the association.

Enforcement of agreements.

38. [35.] Notwithstanding anything contained in any other law for the time being in force, an agreement between the members of a Registered Association shall not be void or voidable merely by reason of the fact that any of the objects of the agreement are in restraint of trade :

Provided that nothing in this section shall enable any Civil Court to entertain any legal proceeding instituted for the express purpose of enforcing or recovering damages for the breach of any agreement concerning the conditions on which any member of an association shall or shall not work, or be employed.

39. [~~36.~~] No Court inferior to that of a Magistrate of the First Class shall try offences under this Act. Jurisdiction of Courts.

40. [~~37.~~] (1) The Government may make rules to carry out the purposes of this Act. Rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may be made for all or any of the following matters, namely,—

(*a*) the form in which the certificate of registration may be issued;

(*b*) the constitution of a Board or Court and the qualifications for a Special Conciliator, or member of a Board or of the Court;

(*c*) the fee to be paid on applications under this Act;

(*d*) the manner in which the total number of employees is to be computed for the purposes of this Act;

(*e*) the other powers of the several authorities under section [~~18~~] 19;

(*f*) the manner in which standing orders may be submitted under section 9;

(*g*) the form in which notice of change is to be given and the persons to whom copies of such notice are to be sent under section 10;

(*h*) the form in which a statement of the case is to be forwarded to a Special Conciliator, Board or Court or Sole Arbitrator;

(*i*) the procedure to be followed by the several authorities under this Act;

(*j*) the registers to be maintained by the employer, and the returns and the information to be periodically furnished by him to the Commissioner of Labour or to other authorities for the purposes of this Act;

(*k*) the officers to be deemed as employers in respect of industrial undertakings owned by the Government; and

(*l*) the form in which the memorandum of agreement, settlement or the award shall be drawn up and the manner in which it shall be recorded and published by the Registrar.

(3) The Government may also prescribe a fine not exceeding rupees one hundred for a breach of any such rule.

(4) The rules made under this section shall be subject to the condition of previous publication in the official Gazette.

Repeal and Savings.

41. [38.] The Mysore Labour (Emergency) Act, 1941, is hereby repealed. But any rules made, anything done and any action taken in exercise of any power conferred by or under the said Emergency Act shall be deemed to have been made, done or taken in exercise of powers conferred by or under this Act as if this Act had commenced on the 26th day of August 1941.

42. *In any case of public emergency the Government, may, by notification in the official Gazette, exempt any employer from the requirement of sub-section (1) of Section 10 and of sub-section (1) of Section 22 of this Act in respect of item 3 and item 5 (so far as it relates to total weekly hours of work) of Schedule II; provided that such exemption shall be in force only for the period covered by an exemption notified under Section 8 of the Mysore Factories Act, 1936.*

SCHEDULE I.

SECTION 9.

1. Classification of employees, *e.g.*, permanent temporary, apprentices, probationers, etc.
2. Manner of notification to employees of periods and hours of work, holidays, pay days and wage rates.
3. Shift working.
4. Attendance and late coming.
5. Leave and holidays, conditions, procedure and authority to grant.
6. Liability to search and entry into premises by certain gates.
7. Temporary stoppages of work and rights and liabilities of employers and employees arising therefrom.
8. Termination of employment. Notices to be given by employer and employee.
9. Punishment for misconduct and the acts or omissions which constitute misconduct.
10. Means of redress for employees against unfair treatment or wrongful exaction on the part of the employer or his agent or servant.
11. Rules of discipline.

SCHEDULE II.

SECTION 10.

1. Reduction intended to be of permanent or semi-permanent character in the number of persons employed or to be employed not due to *force majeure*.
2. Introduction of rationalisation, efficiency or other new systems of work.
3. Starting, alteration or discontinuance of shift working otherwise than in accordance with the standing orders.
4. Withdrawal of any customary concession or privilege or change in usage.
5. Wages and total weekly hours of work.

Printed by the Superintendent at the Government Press, Bangalore.

(Sd) N. Madhava Rao
Dewan

THE MYSORE LABOUR BILL

As amended by the Select Committee.

(Omissions are enclosed in square brackets and additions are in italics.)

[WHEREAS it is expedient to make provision for the promotion of peaceful and amicable settlement of industrial disputes by conciliation and arbitration and the organisation of industrial employees into associations to secure their welfare, and for certain other purposes hereinafter provided;

It is hereby enacted as follows:—]

WHEREAS it is expedient to make provision for the organisation of industrial employees into associations to secure their welfare, for the promotion of peaceful and amicable settlement of industrial disputes by conciliation and arbitration, and for certain other purposes hereinafter provided;

It is hereby enacted as follows:—

Short title, commencement, extent and application.

1. (1) This Act may be called the Mysore Labour Act, 194

(2) This section shall come into force at once. The Government may, by notification in the official Gazette, apply all or any of the other provisions of this Act from such date as may be specified in the notification.

(3) It extends to the whole of Mysore.

(4) It shall apply to all industrial undertakings, whether owned by a person or by the Government or by a local authority.

Recognition of association of employees.

2. (1) The right of employees in an industrial undertaking to combine into an association for the promotion of their common interests is hereby recognised and declared:

Provided that there shall be only one Association of employees in respect of an industrial undertaking.

(2) The Government may, [on the recommendation of the Commissioner of Labour], extend this right to employees in small industrial undertakings engaged in work of the same nature in any local area or to employees in industrial undertakings engaged in work of the same nature located in different areas,

Definitions.

3. In this Act, unless there is anything repugnant in the subject or context,—

(1) "Award" means any interim or final determination in an arbitration proceeding under this Act;

(2) "Board" means the Board of Conciliation appointed under this Act;

(3) "Change" means a change in any industrial matter;

(4) "Commissioner of Labour" includes an Assistant Commissioner of Labour

(5) "Conciliation Proceeding" means any proceeding held by a Conciliator or the Board under this Act;

(6) "Conciliator" means any Conciliator appointed under this Act and includes the Chief Conciliator or a Special Conciliator;

(7) "Court" means a court of arbitration appointed under this Act;

(8) "Employee" means any person employed to do any skilled or unskilled manual or clerical work for hire or reward in any industry and includes, for the purposes of any proceedings under this Act in relation to any industrial dispute, an employee discharged on account of such dispute relating to a change in respect of which a notice is given under section 10 whether before or after the discharge;

(9) "Employer" includes—

(*a*) any agent of an employer;

(*b*) where an industry is conducted or carried on by a department of the Government, the authority prescribed in that behalf, and where no such authority has been prescribed, the head of such department

(*c*) where an industry is conducted or carried on by or on behalf of a local authority, the Chief Executive Officer of such authority or

(*d*) where the owner of any industry, in the course of or for the purpose of conducting such industry, contracts with any other person for the execution by or under the contractor of the whole or any part of any work which is ordinarily part of the said industry, the owner of such industry;

(10) "Industrial Dispute" means any dispute or difference between an employer and employee or employees, which is connected with any industrial matter;

(11) "Industrial Matter" means any matter relating to work, pay, wages, reward, hours of work, privileges, rights or duties of employers or employees, or the mode, terms and conditions of employment or non-employment and includes—

(*a*) all matters pertaining to the relationship between employers and employees, or to the dismissal or non-employment of any person;

(*b*) all matters as to the demarcation of functions of any employees or classes of employees;

(*c*) all matters pertaining to any right or claim under or in respect of or concerning an agreement, settlement or award made under this Act, and

(*d*) all questions of what is fair and right in relation to any industrial matter having regard to the interest of the person immediately concerned and of the community as a whole;

(12) "Industrial Undertaking" means a unit of v under one employer in the same city, town or

(13) "Industry" includes—

(*a*) any business, trade, manufacture or undertaking or calling of employers; and

(*b*) any calling, service, employment, handicraft or industrial occupation or avocation of employees;

(14) "Local Area" means an area notified as such by the Government;

(15) "Lock-out" means the closing of a place or part of a place of employment or the total or partial suspension of work by an employer or the total or partial refusal by an employer to continue to employ persons employed by him, where such closing, suspension or refusal occurs in consequence of an industrial dispute and is intended for the purpose of compelling those persons or of aiding another employer in compelling persons employed by him to accept any term or condition of or affecting employment;

(16) "Member" means a person who is an ordinary member of an association and who is paying subscription of not less than one anna per month and the term "membership" shall be construed accordingly, and shall include an honorary member holding an office in the association;

(17) "Prescribed" means prescribed by rules made under this Act;

(18) "Registered Association" means an association of employees registered under this Act;

(19) "Registered Agreement" means an agreement registered under section 10;

(20) "Registrar" means the Registrar of Associations appointed under this Act;

(21) "Schedule" means a schedule appended to this Act;

(22) "Settlement" means a settlement arrived at during the course of a conciliation proceeding; and

(23) "Strike" means a total or partial cessation of work by employees employed in an industry acting in combination or a concerted refusal or a refusal under a common understanding of employees to continue to work or to accept work where such cessation or refusal is in consequence of an industrial dispute in any industry and is intended for the purpose of compelling any employer to accept any term or condition of or affecting employment.

Commissioner of Labour: his powers.

4. (1) The Government shall appoint a person as Commissioner of Labour whose jurisdiction shall extend throughout Mysore.

(2) The Government may also appoint for any local area or otherwise one or more Assistant Commissioners of Labour, who shall exercise such of the powers and perform such of the duties of the Commissioner as may be delegated by him, and subject to his control and supervision.

(3) For the purpose of exercising his powers and performing his duties, the Commissioner may, after giving reasonable notice, enter any place used for the purpose of any industry or as the office of any Registered Association and shall be entitled to call for and inspect all relevant documents which are necessary for the due discharge of his duties and powers under this Act. The Commissioner may for the same purpose enter, after giving reasonable notice, any premises provided by an employer for the purpose of residence of his employees

(4) All particulars contained in or information obtained from any document inspected or called for under sub-section (3) shall, if the person in whose possession the document was, so requires, be treated as confidential.

(5) The Commissioner shall be entitled to appear in any proceeding under the Act and also to attend meetings of Registered Associations.

Commissioner's duties.

5. It shall be the duty of the Commissioner to help in organising association of employees in each industrial undertaking employing not less than 100 [workmen,] *employees* and to assist [and guide] the officers of Registered Associations in the discharge of their duties and in developing the work of such associations.

Registrar of Associations.

6. (1) The Government shall appoint an officer to be Registrar of Associations for Mysore.

(2) He shall maintain a Register of Associations and such other registers as may be prescribed.

(3) On receipt of an application from an association of employees for registration and on payment of the prescribed fee, the Registrar shall, if he is satisfied that the association fulfils the prescribed conditions, register the association and issue a certificate of registration.

(4) Every such Registered Association shall be a body corporate by the name under which it has been egistered and shall have perpetual succession and a common seal with power to acquire and hold both movable and immovable property and to contract, and shall by the said name sue and be sued.

Provisions to be contained in the rules of an association.

7. An association shall not be entitled to registration under this Act unless the executive thereof is constituted in accordance with the provisions of this Act, and the rules thereof provide for the following matters, namely,—

(*a*) the name of the association;

(*b*) the whole of the objects for which the association has been established;

(*c*) the whole of the purposes for which the general funds of the association shall be applicable, all of which purposes shall be purposes to which such funds are lawfully applicable under this Act;

(*d*) the maintenance of a list of the members of the association and adequate facilities for the inspection thereof by the officers and members of the association;

(*e*) the admission of ordinary members who shall be members actually engaged or employed in the industrial

undertaking concerned and also the condition for the admission of honorary members as officers: provided that not more than two such members shall be so admitted into any association and provided further that no one shall be an honorary member of more than one association at the same time

(*f*) the conditions under which any member shall be entitled to any benefit assured by the rules and under which any fine or forfeiture may be imposed on the members;

(*g*) the manner in which the rules shall be amended, varied or rescinded;

(*h*) the manner in which the members of the executive and the other officers of the association shall be appointed and removed;

(*i*) the safe custody of the funds of the association, an annual audit in such manner as may be prescribed, of the accounts thereof and adequate facilities for the inspection of the account books by the officers and members of the association;

(*j*) the manner in which the association may be dissolved; and

(*k*) the procedure to be followed before the association can call a strike, including a secret ballot of the members and the minimum votes necessary

Objects on which general funds may be spent.

8. The general funds of a Registered Association shall not be spent on any other objects than the following, namely,—

(*a*) the payment of salaries, allowances and expenses to officers of the association;

(*b*) the payment of expenses for the administration of the association, including audit of the accounts of the general funds of the association;

(*c*) the prosecution or defence of any legal proceeding to which the association or any member thereof is a party, when such prosecution or defence is undertaken for the purpose of securing or protecting any rights of the association as such or any rights arising out of the relations of any member with his employer;

(*d*) the conduct of labour disputes on behalf of the association or any member thereof;

(*e*) the compensation of members for loss arising out of labour disputes:

(*f*) allowances to members or their dependents on account of death, old age, sickness, accidents or unemployment of such members;

(*g*) the provision of educational or social benefits for members (including the payment of the expenses of funeral or religious ceremonies for deceased members);

(*h*) *the payment of expenses in connection with the election of representatives of labour provided by statute for the Houses of Legislature and local bodies in Mysore not exceeding a sum of Rs. 100 in each case*;

(*i*) [(*h*)] subject to any conditions contained in the notification, any other object notified by the Government in the official Gazette.

Standing orders regarding industrial matter

9. (1) Within three months after the commencement of the Act, the employer in respect of every industrial undertaking employing not less than 100 [workmen] *employees* shall furnish the Commissioner with a statement of standing orders regulating the relations between him and his employees in respect of matters specified in Schedule I of this Act and simultaneously furnish a copy of the same in English and Kannada to the Registered Association of employees in his concern.

(2) The association shall submit to the Commissioner within 15 days of such receipt any points objected to by them as inconsistent with existing practice. The Commissioner shall thereupon hold a summary enquiry on such points, settle the standing orders as found by him and furnish both to the employer and to the association a copy of the standing orders as settled by him.

(3) An appeal shall lie to the Court of Arbitration from the order of settlement of the standing orders by the Commissioner, provided that such appeal is preferred within 15 days from the date of the settlement exclusive of the time required for obtaining a copy thereof.

(4) The Commissioner or the Court of Arbitration, as the case may be, shall send a copy of the standing orders settled ~~or of the award made~~ under the preceding sub-sections to the Registrar for registering it in a Register of Standing Orders and Agreements.

(5) The standing orders settled by the Commissioner under sub-section (2) or the award made by the Court of Arbitration under sub-section (3), as the case may be, shall be determinative of the relations between the employer and his employees in all matters included therein.

Employers or employees desiring change in standing orders and other industrial matters to give notice.

10. (1) An employer intending to effect any change in any standing order settled under section 9 or in respect of an industrial matter mentioned in Schedule II shall give notice of such intention in the prescribed form to the Registered Association. He shall send a copy of such notice to the Commissioner of Labour, the Chief Conciliator, the Registrar, and to such other person as may be prescribed. He shall also affix a copy of such notice at a conspicuous place in the premises where the employees affected by the change are employed for work and at such other place as may be directed by the Chief Conciliator in any case.

(2) A Registered Association desiring a change in any such standing order or in respect of any other industrial matter shall give notice in the form prescribed to the employer and shall also forward a copy of the notice to the Commissioner of Labour, the Chief Conciliator, the Registrar, and to such other person as may be prescribed.

(3) The Commissioner shall ascertain within 15 days after the receipt of such notice whether the proposed change is mutually agreed to between the employer and the Association and if so agreed to, send a copy relating to the change to the Registrar for registering it in the Register of Agreements and inform both parties. [In case of disagreement within 15 days] *In case of agreement not being reached within fifteen days*, he shall report to the Chief Conciliator for initiating conciliation proceedings under this Act.

(4) The employer and the Registered Association shall maintain records of all negotiations with each other and shall produce such records when called upon to do so during any subsequent proceedings under the Act.

Conciliators and Board of Conciliation.

11 (1) The Registrar of Associations shall be *ex-officio* Chief Conciliator in Mysore.

(2) The Government may, on the recommendation of the Chief Conciliator, ~~appoint a Special~~ Conciliator in respect of any dispute.

(3) During the pendency of any proceedings before the Conciliator under the foregoing provisions, the Government may, and if both the parties agree either prior to the commencement of such proceedings or after the failure of the Conciliator to bring about a settlement, shall refer the dispute to a Board of Conciliation consisting of three independent persons.

12. (1) The Conciliator or the Board shall conclude the enquiry within one month of the initiation of conciliation proceedings or the appointment of the Board, as the case may be. Conciliation proceedings.

(2) If a settlement be reached in the conciliation proceedings, the Conciliator or the Chairman of the Board shall send a report of proceedings with a copy of the memorandum of settlement to the Registrar and to both the parties.

(3) The Registrar shall record the settlement in the Register of Agreements.

(4) Where the parties do not come to a settlement, the Conciliator or the Board shall submit a report to Government through the Chief Conciliator and such report shall be published in the official Gazette not later than the second issue after the date of receipt of the report.

[13.] [(1) The Government may constitute a Court of Arbitration for determining industrial disputes.] Court of Arbitration and proceedings in Arbitration.

13. (1) The Government may constitute a court of arbitration.

(2) It shall be the duty of the court of arbitration—

(i) *to decide appeals from the orders of the Commissioner of Labour regarding standing orders;*

(ii) *to decide industrial disputes in accordance with the submissions which are registered and which provide for reference to the court of arbitration;*

(iii) *to decide industrial disputes referred to it under the Act;*

(iv) *to decide such other matters as may be referred to it under the Act or the rules.*

(3) [(2)] At any time during the progress of the nciliation proceedings, *or thereafter* the employer and the sociation concerned may jointly apply to the Chief Conciliator for referring the point in dispute to arbitration, forthwith.

(4) [(3)] The Chief Conciliator shall thereupon submit the application to the Government who shall refer it to the Court of Arbitration or to the Sole Arbitrator. if one is mentioned in the application.

(5) [(4)] The Court of Arbitration or the Sole Arbitrator shall certify its or his award to the Registrar and to the parties in dispute.

(6) [(5)] The Registrar shall record the Award in the Register of Agreements.

(7) [(6)] The Award shall be binding on the parties to the dispute and on their successors and assigns and shall not be called in question in any civil or Criminal Court or other judicial proceedings.

14. (1) *An employer and a registered association may by a written agreement agree to submit any present or future industrial dispute or any classes of such dispute to arbitration of any person whether such arbitrator is named in such agreement or not. Such agreement shall be called a submission.*

(2) *Any such agreement arrived at before the coming into force of this Act between an employer and an association shall also be deemed to be a submission.*

(3) *Such submission may provide that the dispute shall be referred to the court of arbitration.*

(4) *A copy of every such submission shall be sent to the Registrar who shall register it in a register to be maintained for this purpose.*

(5) *In the absence of an agreement to the contrary, every such submission shall be irrevocable: Provided that the submission to refer future disputes to arbitration may at any time be revoked by either of the parties to such submission by giving the other party three months notice in writing*

Provided further that before the expiry of the said period of three months, the parties may agree to continue the submission for such further period as may be agreed upon between them.

(6) *The proceedings in arbitration under this section shall be in accordance with the provisions of* ~~*Schedule II of the Code of Civil Procedure, 1911,*~~ *in so far as they are applicable and the powers which are exercisable by a Civil Court under the said provision shall be exercisable by the court of arbitration.*

the Indian Arbitration Act 1917

(7) *No conciliation proceedings shall be commenced in respect of any dispute if the majority of the employees directly affected by such dispute are members of the registered association which is a party to a submission relating to such dispute.*

(8) *The arbitrator may refer any matter in which a decision on any question of law is required to the court of arbitration for its decision. Any award made by the arbitrator shall be in accordance with such decision.*

(9) *The arbitrator shall, after hearing the parties concerned, make an award which shall be signed by him.*

(10) *Notwithstanding anything contained in this section if no provision has been made in any submission for the appointment of an arbitrator or where by reason of the act of parties or any circumstances, the appointment of an arbitrator or an umpire is not possible, such dispute shall be referred to the arbitration of the court of arbitration.*

(11) *The arbitrator or the court shall certify the award made by him or it to the parties, to the Registrar and the Commissioner of Labour.*

(12) *The award shall come into force on the date stated in such award or where no such date is stated therein, on the date on which it is registered by the Registrar in the Register kept for this purpose.*

Limitation on notice of change.

15. [14.] No notice of change under section 10 shall be given in respect of a matter settled—

(*a*) by an agreement or settlement within six months from its registration, and

(*b*) by an award, within a year from its registration, provided that by consent of both parties an agreement to modify any such agreement, settlement or award, may be registered at any time.

Nature of proceedings before Conciliator and Court.

16. [15.] All proceedings before the Commissioner of Labour or a Conciliator or a Board or a Sole Arbitrator shall be confidential. Proceedings before a Court of Arbitration shall be public except where the Court directs its sittings to be *in camera.*

Commissioner, Conciliator and member of Board to be public servants.

17. [16.] The Commissioner, an Assistant Commissioner, a Conciliator, every member of the Board of Conciliation and Sole Arbitrator and every member of the Court of Arbitration shall be deemed to be a public servant within the meaning of section 21, Indian Penal Code, as in force in Mysore.

Penalty for obstructing any person from carrying out his duties under this Act.

18. [17.] Any person who wilfully refuses entry to the Commissioner to any place which he is entitled to enter under section 4 or who fails to produce any document which he is required to produce, or who fails to comply with any requisition or order issued to him by or under

the provisions of this Act shall, on conviction, be punishable with fine which may extend to rupees one hundred and in respect of a continuing failure, with an additional fine of rupees twenty-five per day for every day during which such failure continues after the last conviction for such failure.

Procedure before the Conciliator and Court.

19. [18.] (1) In respect of every proceeding before them, the Conciliator, the Board of Conciliation, the Sole Arbitrator and the Court of Arbitration shall have the same powers as are vested in Courts under the Code of Civil Procedure, 1911, in respect of the following matters when trying a suit :

(*a*) summoning and enforcing the attendance of any person and examining him on oath ;

(*b*) compelling the production of documents ;

(*c*) issuing commissions for the examination of witnesses ;

(*d*) proof of facts by affidavits ;

and shall have such further powers as may be prescribed.

(2) (*a*) Every proceeding before a Court of Arbitration shall be deemed to be a judicial proceeding within the meaning of sections 192, 193 and 228 of the Indian Penal Code, as in force in Mysore, and within the meaning of the Contempt of Courts Act, 1930.

(*b*) Parties before the Court of Arbitration may be represented by counsel.

(3) There shall be no award of costs in any proceeding under this Act.

Information furnished by a party to be treated as confidential.

20. [19.] (1) If a party to an industrial dispute giving any information or producing any document in any proceeding under this Act, makes a request in writing to the Conciliator, the Board, the Sole Arbitrator or the Court, as the case may be, that such information or the contents of such document may be treated as confidential, the Conciliator, the Board or the Sole Arbitrator or the Court, as the case may be, shall direct that such information or document be treated as confidential.

(2) The Conciliator or any member of the Board or Sole Arbitrator or Court or any person present at or concerned in any proceeding under this Act shall not disclose any information or the contents of any document in respect of which a request has been made under sub-section (1) without the consent in writing of the party making the request under the said sub-section.

(3) Nothing in this section shall apply to disclosure of any information or the contents of any document for the purpose of a prosecution under this Act or under any other law for the time being in force.

21. [20.] If a Conciliator or a member of a Board or Sole Arbitrator or Court or any person present at or concerned in any proceeding under this Act wilfully discloses any information or the contents of any document in contravention of this Act, he shall, on a complaint made by the party who gave the information or produced the document in such proceeding and on conviction, be punishable with fine which may extend to rupees one thousand. Penalty for disclosing confidential information.

22. [21.] (1) No employer shall make any change in any industrial matter in regard to which a standing order has been settled under section 9 or which is mentioned in Schedule II before the agreement referred in sub-section (3) of section 10 is arrived at or where no such agreement is arrived at before the conciliation proceedings are completed or in cases where the dispute is referred to arbitration, before the award has been given. Illegal changes

(2) No employer shall make any such change in contravention of the terms of a registered agreement, a settlement or an award.

(3) Any change made in contravention of the provisions of sub-section (1) or (2) shall be illegal.

23. [22.] (1) Any employer who makes any illegal change shall, on conviction, be punishable with fine which may extend to rupees [five thousand] *two thousand and five hundred* and in the case of a continuing offence with an additional fine which may extend to rupees two hundred per day for every day during which the offence continues after his last conviction for such offence. Penalty for illegal changes.

(2) An employer who acts in contravention of a standing order settled under section 9 shall, on conviction, be punishable with fine which may extend to rupees one hundred and in the case of continuing contravention of such standing order, with an additional fine which may extend to rupees twenty-five per day for every day during which such contravention continues after his last conviction for such contravention.

Employer not to dismiss, reduce or punish an employee for being connected with an association.

24 [23.] (1) No employer shall dismiss or reduce any employee or punish him in any other manner by reason of the circumstance that the employee—

(a) is an officer or member of a registered association or of an association which has applied for being registered under this Act; or

(b) is entitled to the benefit of a registered agreement, settlement or award; or

(c) has appeared or intends to appear as a witness or has given evidence or intends to give evidence in a proceeding under this Act; or

(d) has gone on or joined a strike which is not illegal under the provisions of this Act.

(2) Whoever contravenes the provisions of sub-section (1) shall, on conviction, be punishable with fine which may extend to rupees one thousand.

(3) Where the offence is one of wrongful dismissal, the Court shall direct that the employer shall pay the dismissed employee wages for the period he is kept out of employment, *up to the date of the final decision in the case*, based on his average wages for the twelve months preceding the date of dismissal.

(4) Where the offence is one of wrongful reduction or other punishment, the Court trying any offence under this section may direct that out of the fine recovered, such amount as it deems fit shall be paid to the employee concerned as compensation.

and lock-outs.

25. [24.] A strike or a lock-out shall be illegal which has any object other than or in addition to the furtherance of an industrial dispute within the industrial undertaking in which the strikers or employer locking-out are engaged.

Illegal strikes.

[25. (1) A strike shall be illegal if it is commenced or continued—

(a) without giving notice in accordance with the provisions of section 10, and before the initiation of conciliation proceedings where an agreement is not arrived at

(b) only for the reason that the employer has not carried out the provisions of any standing order or has made an illegal change

in cases where conciliation proceedings in regard to the industrial dispute to which the

strike relates have commenced, before the expiry of 14 days after the publication of the report;

(*d*) in cases where the dispute has been referred to arbitration, before an award has been given;

(*e*) in contravention of the terms of a registered agreement, settlement or award.

(2) In cases where conciliation proceedings in regard to any industrial dispute have been completed, a strike relating to such dispute shall be illegal if it is commenced at any time after the expiry of two months after the publication of the report.]

26. *A strike shall be illegal if it is commenced or continued—*

(a) *in contravention of the terms of a registered agreement or award;*

(b) *only for the reason that the employer has not carried out the provisions of any standing order or has made an illegal change;*

(c) *without giving notice in accordance with the provisions of section 10 and before the initiation of conciliation proceedings where an agreement is not arrived at;*

(d) *in cases where conciliation proceedings in regard to the industrial dispute to which the strike relates have commenced before the expiry of 14 days or after the expiry of two months from the publication of the report;*

(e) *in cases where the dispute has been referred to arbitration before an award has been given.*

[26. (1) A lock-out shall be illegal if it is declared, commenced or continued— Illegal lock-outs

(*a*) without giving notice in accordance with the provisions of section 10, and before the initiation of conciliation proceedings where an agreement is not arrived at;

(*b*) in cases where conciliation proceedings in regard to the industrial dispute to which the lock-out relates have commenced before the expiry of 14 days after the publication of the report;

(*c*) in cases where the dispute has been referred to arbitration, before an award has been given;

(*d*) in contravention of the terms of a registered agreement, settlement or award.

(2) In cases where conciliation proceedings in regard to any industrial dispute have been completed, a lock-out relating to such dispute shall be illegal if it is commenced at any time after the expiry of two months after the publication of the report.]

27. A lock-out shall be illegal if it is declared, commenced or continued—

(a) *in contravention of the terms of a registered agreement, settlement or award;*

(b) *without giving notice in accordance with the provisions of section 10 and before the initiation of conciliation proceedings where an agreement is not arrived at;*

(c) *in cases where conciliation proceedings in regard to the industrial dispute to which the lock-out relates has commenced before the expiry of 14 days or after the expiry of two months after the publication of the report;*

(d) *in cases where the dispute has been referred to arbitration before an award has been gived.*

28. *A Registrar shall, on the written application of an employer or a Registered Association, declare within three days thereafter that a strike or lock-out is legal or illegal as the case may be.*

Penalty for declaring an illegal lock-out.

29. [27.] Any employer who has declared a lock-out and continues it after it has been declared by the Registrar to be illegal shall, on conviction, be punishable with fine which may extend to rupees two thousand and five hundred and shall, in addition, be directed by the Court to pay the employees kept out of employment by such lock-out, wages for the period they are so kept out, based on the average earned by each employee during the twelve months preceding the commencement of the lock-out.

(2) *In a prosecution under this section, it shall be a valid defence that the lock-out was not illegal under the Act.*

Penalty for declaring or commencing an illegal strike.

30. [28.] Any employee who has gone on strike and continues to be on strike or who joins a strike, after it has been declared by the Registrar to be illegal shall, on conviction, be punishable with imprisonment of either description for a term which may extend to 15 days or fine which may extend to rupees twenty-five and in the case of a continuing offence with an additional

fine which may extend to rupee one per day for every day during which the offence continues after his last conviction for such offence subject to a maximum of rupees fifty.

(2) *In a prosecution under this section it shall be a valid defence that the strike was not illegal under the Act.*

Penalty for instigation, etc., of illegal strikes and lock-outs.

31. [29.] (*a*) If any person instigates or incites others to take part in, or otherwise acts in furtherance of, a strike or lock-out which is declared to be illegal by the Registrar, whether such strike or lock-out has commenced or not, he shall, on conviction, be punishable with imprisonment of either description for a term which may extend to three months, or with fine or with both.

Explanation.—For the purpose of this section, a person who contributes, collects or solicits funds for the purpose of any such strike or lock-out shall be deemed to act in furtherance thereof.

(*b*) Any person who instigates or incites an employer or an employee to secure relief in respect of an industrial matter, otherwise than through the provisions of this Act shall, on conviction, be punishable with imprisonment of either description for a term which may extend to three months or with fine or with both.

32. Any person who has attained the age of 15 years may be a member of a registered association subject to any rules of the association to the contrary and may, subject as aforesaid, enjoy all the rights of a member and execute all instruments and give all acquittances necessary to be executed or given under the rules:

Provided that no person who has not attained the age of 18 years shall be a member of the executive of any such association.

Liability of the executive of an association.

33. [30.] Where anything is required to be done by any association by or under any provision of this Act, the person authorised in this behalf by the executive of the association or if no person is so authorised, every member of the executive of the association shall be bound to do the same and shall be personally liable if default is made in the doing of any such thing.

Explanation.—For the purpose of this section, executive of an association means the body by whatever name called to which the management of the affairs of the association is entrusted.

Certain Acts not to apply to associations

31 The following Acts, namely

(a) The Societies Registration Act, 1904
(b) The Mysore Co-operative Societies Act, 1918,
(c) The Mysore Companies Act, 1938, and
(d) The Insurance Act, 1939,

shall not apply to any Registered Association, and the registration of any association of industrial employees under any such Act, shall be void.

35. [32.] No association of employees other than those registered under this Act shall be recognised or permitted to be represented in any proceedings under this Act.

Persons acting in good faith not to be sued.

36. [33.] No suit or proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Immunity from civil suit in certain cases.

37. [34.] (1) No suit or other legal proceeding shall be maintainable in any Civil Court against any Registered Association or any officer or member thereof in respect of any act done in contemplation or furtherance of an industrial dispute to which a member of the association is a party on the ground only that such act induces some other person to break a contract of employment, or that it is in interference with the industry, business or employment of some other person or with the right of some other person to dispose of his capital or of his labour as he wills.

(2) A Registered Association shall not be liable in any suit or other legal proceeding in any Civil Court in respect of any tortuous act done in contemplation or furtherance of an industrial dispute by an agent of the association if it is proved that such person acted without the knowledge of, or contrary to express instructions given by the executive of the association.

Enforcement of agreements.

38. [35.] Notwithstanding anything contained in any other law for the time being in force, an agreement between the members of a Registered Association shall not be void or voidable merely by reason of the fact that any of the objects of the agreement are in restraint of trade

Provided that nothing in this section shall enable any Civil Court to entertain any legal proceeding instituted for the express purpose of enforcing or recovering damages for the breach of any agreement concerning the conditions on which any member of an association shall or shall not work, or be employed.

39. [36.] No Court inferior to that of a Magistrate of the First Class shall try offences under this Act. Jurisdiction of

40. [37.] 1) The Government may make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may be made for all or any of the following matters, namely,—

(*a*) the form in which the certificate of registration may be issued;
(*b*) the constitution of a Board or Court and the qualifications for a Special Conciliator, or member of a Board or of the Court;
(*c*) the fee to be paid on applications under this Act;
(*d*) the manner in which the total number of employees is to be computed for the purposes of this Act;
(*e*) the other powers of the several authorities under section [18] 19;
(*f*) the manner in which standing orders may be submitted under section 9;
(*g*) the form in which notice of change is to be given and the persons to whom copies of such notice are to be sent under section 10;
(*h*) the form in which a statement of the case is to be forwarded to a Special Conciliator, Board or Court or Sole Arbitrator;
(*i*) the procedure to be followed by the several authorities under this Act;
(*j*) the registers to be maintained by the employer, and the returns and the information to be periodically furnished by him to the Commissioner of Labour or to other authorities for the purposes of this Act;
(*k*) the officers to be deemed as employers in respect of industrial undertakings owned by the Government; and
(*l*) the form in which the memorandum of agreement, settlement or the award shall be drawn up and the manner in which it shall be recorded and published by the Registrar.

(3) The Government may also prescribe a fine not exceeding rupees one hundred for a breach of any such rule.

(4) The rules made under this section shall be subject to the condition of previous publication in the official Gazette.

Repeal and Savings.

41. [38.] The Mysore Labour (Emergency) Act, 1941, is hereby repealed. But any rules made, anything done and any action taken in exercise of any power conferred by or under the said Emergency Act shall be deemed to have been made, done or taken, in exercise of powers conferred by or under this Act as if this Act had commenced on the 26th day of August 1941.

42. *In any case of public emergency the Government, may, by notification in the official Gazette, exempt any employer from the requirement of sub-section (1) of Section 10 and of sub-section (1) of Section 22 of this Act in respect of item 3 and item 5 (so far as it relates to total weekly hours of work) of Schedule II; provided that such exemption shall be in force only for the period covered by an exemption notified under Section 8 of the Mysore Factories Act, 1936.*

SCHEDULE I.

SECTION 9.

1. Classification of employees, *e.g.*, permanent temporary, apprentices, probationers, etc.
2. Manner of notification to employees of periods and hours of work, holidays, pay days and wage rates.
3. Shift working.
4. Attendance and late coming.
5. Leave and holidays, conditions, procedure and authority to grant.
6. Liability to search and entry into premises by certain gates.
7. Temporary stoppages of work and rights and liabilities of employers and employees arising therefrom.
8. Termination of employment. Notices to be given by employer and employee.
9. Punishment for misconduct and the acts or omissions which constitute misconduct.
10. Means of redress for employees against unfair treatment or wrongful exaction on the part of the employer or his agent or servant.
11. Rules of discipline.

SCHEDULE II.

SECTION 10.

1. Reduction intended to be of permanent or semi-permanent character in the number of persons employed or to be employed not due to *force majeure.*
2. Introduction of rationalisation, efficiency or other new systems of work.
3. Starting, alteration or discontinuance of shift working otherwise than in accordance with the standing orders.
4. Withdrawal of any customary concession or privilege or change in usage.
5. Wages and total weekly hours of work.

Printed by the Superintendent at the Government Press, Bangalore

THE MYSORE LEGISLATIVE COUNCIL.

NOTICE OF AMENDMENTS.

December 1941.

THE MYSORE LABOUR BILL

Clause 2.

1. By Mr. S. Narayana Rao.—That for clause 2, the following clause be substituted, namely:—

"2. The right of industrial employees to form associations for securing their welfare and for the promotion of their common interests is hereby recognised and declared."

2. By Mr. G. Benn White.—That in sub-clause (1) the following addition be made at the end:—

".....provided that only one association of employees shall be constituted within an industrial undertaking."

3. By Mr. S. Narayana Rao.—That sub-clause (2) be omitted.

4. By Mr. T. Ramachandra.—That after the words "small industrial undertaking", the words "employing less than 100 persons" be added.

5. By Mr. T. Ramachandra.—The following sub-clause (3) to be added to clause 2:—

"The Government may permit the constitution of a Federation of Registered Associations in any local area or in respect of any industry, subject to such rules as may be prescribed in this behalf."

Clause 3.

6. By Mr. M. Ramachandra Rao Scindia.—That in sub-clause (8) the words "or clerical" be omitted.

7. By Mr. T. Ramachandra.—That in sub-clause (8) after the words "any person" in the first line, the words "not below the age of 14" be inserted.

8. By Mr. S. Narayana Rao.—That for sub-clause (10) the following be substituted :—

"'Industrial dispute' means any dispute or difference between an employer and employee, or between employers and employees, or between employees and employees and which is connected with any industrial matter."

9. By Mr. S. Narayana Rao.—That sub-clause (12) be omitted.

10. By Mr. S. Narayana Rao.—That a definition be added as follows :—

"'A labour association' means any combination formed primarily for the purpose of regulating the relation between employees and employers, or between employees and employees and includes any federation of such associations."

11. By Messrs. T. Mariappa, A. Bheemappa Naik, H. S. Rudrappa, D. S. Mallappa and A. G. Ramachandra Rao.—That in clause 4 (5) "also to attend meetings of registered associations" be deleted.

12. That in clause 5 of the Bill the words "in each industrial undertaking employing not less than 100 workmen" be deleted and after the words "in organizing association of" add the word "industrial" and the word "guide" be omitted.

13. That in clause 6 after sub-clause 3, add a sub-clause to this effect: "The Registrar shall not recognise any other association after one Union has been duly recognised in any one industrial undertaking."

Clause 7.

14. By Mr. S. Narayana Rao.—That for sub-clause (*e*) the following be inserted :—

"the admission of ordinary members who shall be members actually engaged or employed in the industry concerned and also the condition for the admission of honorary members as officers; provided that not more than half shall be so admitted into any association."

15. By Messrs. T. Mariappa, A. Bheemappa Naik, H. S. Rudrappa, D. S. Mallappa and A. G. Ramachandra Rao.—That in clause 7 (*e*) substitute the word "five" instead of the word "two"

A proviso be added "provided that no dismissed employee is disqualified for being admitted as an honorary member; provided further that in the case of an industry conducted or carried on by the Department of Government, the General Body may admit not less than five members who are not actually engaged or employed in that industry as honorary members who are not Government servants."

16. By Mr. T. Ramachandra.—That clause 7 (*k*) in the present Bill be deleted, and this same sub-clause (*k*) be added as a sub-clause to clause 37 (2).

17. By Mr. M. Ramachandra Rao Sindia.—That sub-clause (*k*) of clause 7 be deleted.

Clause 8.

18. By Mr. S. Narayana Rao.—That after sub-clause (*g*) the following shall be added as sub-clause (*h*), the existing sub-clause (*h*) being re-numbered as sub-clause (*i*) :—

"the payment, in furtherance of any of the objects on which the general funds of the association may be spent, of contributions to any cause intended to benefit the employees in general, provided that the expenditure in respect of such contributions in any financial year shall not at any time during that year be in excess of one-fourth of the combined total of the gross income which has up to that time accrued to the general funds of the association during that year and of the balance at the credit of those funds at the commencement of that year."

19. By Mr. T. Ramachandra.—That the following sub-clause be added :—"(i) The expenses incurred for the election of Representatives of Labour provided by Statute for the Houses of Legislature and Local Bodies in the State.

(ii) Publication of periodicals and literature dealing with the condition of betterment and welfare of Labour."

20. By Messrs. T. Mariappa, A. Bheemappa Naik, H. S. Rudrappa, D. S. Mallappa and A. G.

RAMACHANDRA RAO.—That in clause 8 a new sub-clause (*i*) be added.—

"(*i*) For purposes of propaganda in elections to the Legislatures to represent Labour interests or where a candidate is set up on behalf of a Union, then the expenses of such a candidate may be met out of the General Funds of the Union not exceeding Rs. 200.

21. BY MR. M. RAMACHANDRA RAO SINDIA.—That in sub-clause (8) of clause 3, the words "or clerical" be deleted.

New Clause.

22. BY MR. S. NARAYANA RAO.—That after clause 8 the following new clause be added:—

Fund for political purposes.

"9 (1) A registered association may constitute a separate fund, from contributions separately levied for or made to that fund, from which payments may be made, for the promotion of the civic and political interests of its members, in furtherance of any of the objects specified in sub-section (2).

(2) The objects referred to in sub-section (1) are—

(*a*) the payment of any expenses incurred, either directly or indirectly, by a candidate or prospective candidate for election as a member of any legislative body constituted under the Government of Mysore Act, 1940, before, during, or after the election in connection with his candidature or election; or

(*b*) the holding of any meeting or the distribution of any literature or documents in support of any such candidate or prospective candidate; or

(*c*) the holding of political meetings of any kind, or the distribution of any political literature or political documents of any kind."

Clause 9.

23. BY MR. S. NARAYANA RAO.—After sub-clause (3) a new sub-clause be added as follows:—

"(4) The Commissioner may refer any matter arising before him in any proceeding under this Act to the Court of Arbitration for its

decision and any order passed by the Commissioner in such proceeding shall be in accordance with that decision."

24. By Messrs. T. Mariappa, A. Bheemappa Naik, H. S. Rudrappa, D. S. Mallappa and A. G. Ramachandra Rao.—That in clause 9 (2) the words "within 15 days after the receipt of the points objected" be added after the words "Standing Orders"

That in clause 9 (4) "within 15 days" be added after the words "as the case may be"

25. By Mr. T. Ramachandra.—The following additional clause to be inserted between clauses 12 and 13 of the existing Bill: —

"The Government may, at any time, refer any industrial dispute to the Court of Arbitration, if it is satisfied that a state of emergency has arisen and that—

(i) a serious outbreak of disorder or a breach of the public peace is likely to occur; or

(ii) a serious or prolonged hardship to a large section of the community is likely to be caused by reason of the continuance of the industrial dispute; or

(iii) the industry concerned is likely to be seriously affected and the prospects and scope for employment curtailed as a result of the continuance of the industrial dispute."

Clause 13.

26. By Mr. S. Narayana Rao.—That in sub-clause (2) for the word 'jointly', the words 'separately or conjointly' be substituted.

27. By Mr. G. Benn White.—That sub-clause (3) be substituted by the following sub-clause:—

"The Chief Conciliator shall thereupon submit the application within three days of its receipt to the Government who shall refer it to the Court of Arbitration or to the sole Arbitrator, if one is mentioned in the application, within seven days after receipt of such application."

28. By Messrs. T. Mariappa, A. Bheemappa Naik, H. S. Rudrappa, D. S. Mallappa and A. G. Ramachandra Rao.—That in clause 13 a sub-clause be added at the end of sub-clause (6). This will be sub-clause (7).

13 "(7).—The Government shall, in the case of a strike unduly prolonged, refer the matter in dispute to a Court of Arbitration and the award by such Court shall be binding on both the parties as if it were made under sub-clause 13 (2)."

29. By Mr. S. Narayana Rao.—That in clause 13, the following new sub-clause be added :—

"(4) The Government may, at any time, refer any industrial dispute to the Court of Arbitration, if it is satisfied that—

(i) a serious outbreak of disorder or a breach of the peace is likely to occur, or

(ii) a serious or prolonged hardship to a large section of the community is likely to be caused by reason of the continuance of the industrial dispute; or,

(iii) the prospect or scope for employment is curtailed as a result of the continuance of the industrial dispute."

New Clause.

Constitution of Court of Arbitration.

30. By Mr. S. Narayana Rao.—That after clause 13, the following new clause be inserted :

(1) The Court of Arbitration shall consist of three members, one of whom shall be its President.

(2) Every member of the Court shall be a person—

(a) who is not connected with any industry, and

(b) who is or has been a Judge of the High Court or is eligible to be appointed a Judge of the High Court.

(3) Subject to the provisions of this Act, the Court of Arbitration may regulate its own procedure."

Clause 22.

31. By Mr. M. Ramachandra Rao Sindia.—That in sub-clause (1) for the words "Rupees five thousand" the words "Rupees two thousand five hundred" be substituted.

32. By Mr. M. Ramachandra Rao Sindia.—That in sub-clause (2) for the words "Rupees one hundred" the words "Rupees fifty" be substituted.

33. By Messrs. G. Benn White and M. Ramachandra Rao Sindia.—That after sub-clause (2) the following sub-clause be inserted as sub-clause (3) :—

> "22 (3). Any registered association intending to prefer a complaint under this clause shall first obtain a certificate from the Registrar that there is a *prima facie* case on which to found such complaint."

Clause 23.

34. By Mr. M. Ramachandra Rao Sindia.—That in sub-clause (2) for "Rupees one thousand" the words "Rupees five hundred" be substituted.

35. By Mr. M. Ramachandra Rao Sindia.—That in sub-clause (3) after the words "kept out of employment" the words "up to the final decision in the case" be added.

36. By Mr. M. Ramachandra Rao Sindia.—That for sub-clause (4) the following sub-clause be inserted :—

> "23 (4). Where the offence is one of wrongful reduction or other punishment, the Court trying any offence under this clause may direct that out of the fine recovered, such amount as it may deem fit shall be paid to the employee concerned, as compensation."

37. By Mr. G. Benn White.—That sub-clauses (3) and (4) be deleted and the following sub-clause be inserted :—

> "23 (3) The Court trying an offence under this clause may direct that out of the fine recovered, such amount as it may deem fit shall be paid to the employee concerned as compensation."

Clause 24.

38. By Mr. S. Narayana Rao.—That clause 24 of the Bill be deleted.

By Messrs. T. Mariappa, A. Bheemappa Naik, H. S. Rudrappa, D. S. Mallappa and A. G. Ramachandra Rao.—That clause 24 of the Bill be omitted.

Clause 25.

39. By Messrs. G. Benn White and M. Rama Chandra Rao Sindia.—That this clause be substituted by the following clause.

"25. Every strike shall be illegal which is commenced or continued-

(1) (*a*) in contravention of the terms of a registered agreement or award;

(*b*) only for the reason that the employer has not carried out the provisions of any standing order or has made an illegal charge;

(2) (*a*) without giving notice in accordance with the provisions of clause 10, and where an agreement is not arrived at before the initiation of conciliation proceedings;

(*b*) in cases where conciliation proceedings in regard to the industrial dispute to which the strike relates have commenced before the expiry of fourteen days and after the expiry of two months from the publication of the report;

(*c*) in cases where the dispute has been referred to arbitration, before an award has been given.'

New Clause.

40. By Mr. M. Ramachandra Rao Sindia.—That after clause 26, the following clause be inserted :-

"26-A. A Registrar shall on the written request of an employer or a Registered Association declare within seventy-two hours a strike or lock-out to be legal or illegal, as the case may be."

Clause 27.

41. By Mr. S. Narayana Rao.—That for the words "declared by the Registrar to be illegal" the words "declared by the Court of Arbitration to be illegal" be substituted.

Clauses 27 and 28.

42. By Messrs. G. Benn White and M. Ramachandra Rao Sindia.—That after the word "shall" in line 3 of both the clauses, the following be inserted:—

"if the Court finds that such declaration is correct and in accordance with the Act."

43. By Mr. T. Ramachandra.—That after the words "after it has been declared by the Registrar to be illegal", the words "in accordance with the provisions of the Act" be inserted.

Clause 29.

44. By Mr. T. Ramachandra.—That in sub-clause (*b*) for the words "industrial matter" the words "industrial dispute" be substituted.

45. By Mr. T. Ramachandra.—That clause 29 (*b*) in the present Bill be deleted.

46. By Messrs. T. Mariappa, A. Bheemappa Naik, H. S. Rudrappa, D. S. Mallappa and A. G. Ramachandra Rao.—That clause 29 of the Bill be omitted.

New Clause.

47. By Mr. G. Benn White.—That after clause 29 a new clause be added as follows:—

(1) "The Registrar shall, on the written request of an employer, or a registered association, declare within seventy-two hours a lock-out or strike to be legal or illegal as the case may be;

(2) An appeal shall lie to the Court of Arbitration from the declaration of legality or illegality of a strike or lock-out by the Registrar, provided that such appeal is preferred within fifteen days from the date of settlement exclusive of the time required for obtaining a copy thereof."

Clause 32.

48. By Mr. T. Ramachandra.—That a new sub-clause be added as follows :

"And no non-registered association of employees shall be permitted to be organised and any one contravening this sub-clause shall, on conviction be punishable with imprisonment extending to three months or with fine or with both."

Clause 37

49. By Mr. T. Ramachandra.—That the following new sub-clause be added :—

"The manner in which the Police or the Magistrate shall take cognisance of an illegal lock-out or strike under the provisions of the Act."

50. By Mr. M. Ramachandra Rao Sindia.—That in sub clause (2) of clause 37, the following be added as item (*n*) :—

"the procedure to be followed before a registered association can call a strike including a secret ballot of the members and the minimum votes necessary therefor.

51. By Messrs. T. Mariappa, A. Bheemappa Naik, H. S. Rudrappa, D. S. Mallappa and A. G. Ramachandra Rao.—That in clause 37 of the Bill a proviso shall be added to this effect : "Provided that the rules framed shall not curtail the powers of the Labour Association or Union in framing its own rules and bye-laws under clauses 7 and 8 of the Bill."

That a sub-clause (*m*) be added to this effect, *i.e.*, "the procedure for settling the election disputes of a Labour Association or Union

New Clause.

52. By Mr. S. Narayana Rao.—That a set of clauses dealing with arbitration be added to the Bill to the following effect :—

"1. (i) Any employer and a registered association may, by a written agreement, agree to submit any present

or future industrial dispute or any classes of such disputes to arbitration of any person whether such arbitrator is named in such agreement or not. Such agreement shall be called a submission.

(ii) Any such agreement arrived at before the coming into force of this Act between an employer and a union shall also be deemed to a submission.

(iii) Such submission may provide that the dispute shall be referred to the Court of Arbitration.

(iv) A copy of every such submission shall be sent to the Registrar who shall register it in a register to be maintained for the purpose.

2. In the absence of an agreement to the contrary, every submission shall be irrevocable:

Provided that the submission to refer future disputes to arbitration may at any time be revoked by any of the parties to such submission by giving the other party six months' notice in writing:

Provided further that before the expiry of the said period of six months, the parties may agree to continue the submission for such further period as may be agreed upon between them.

3. The proceedings in arbitration under these sections shall be in accordance with the provisions of Schedule 2 of the Code of Civil Procedure, in so far as they are applicable and the powers which are exercisable by Civil Court under the said provisions shall be exercisable by the Court of Arbitration.

4. No conciliation proceedings shall be commenced in respect of any dispute if—

(*a*) the majority of the employees directly affected by such dispute are members of a registered association which is a party to a submission relating to such dispute, or

(*b*) some of the employees directly affected by such dispute are members of a representative association which is a party to such submission.

5. The arbitrator may refer any matter in which a decision on any question of law is required to the Court of Arbitration for its decision. Any award made by the arbitrator shall be in accordance with such decision.

6. The arbitrator shall, after hearing the parties concerned, make an award which shall be signed by him.

7. Notwithstanding anything contained in these sections, if no provision has been made in any submission for the appointment of an Arbitrator or where by reason of the act of parties or any circumstances, the appointment of an Arbitrator or an umpire is not possible, such dispute shall be referred to the arbitration of the Court of Arbitration.

8. The arbitrator or the Court of Arbitration shall give notice of the award made by him or it to the parties and forward a copy of the award to the Registrar and the Commissioner of Labour.

9. The award shall come into force on the date stated in the award or where no such date is stated therein on the date on which it is registered by the Registrar in a register kept for this purpose."

(17) That this clause be added to the Bill defining the duties of the Court of Arbitration.

"It shall be the duty of the Court of Arbitration—

(i) to decide appeals from the orders passed by the Registrar under this Act;

(ii) to decide all matters which may be referred to it by the Registrar or the arbitrator.

(iii) to decide appeals from the Commissioner of Labour regarding standing orders;

(iv) to decide industrial disputes in accordance with submissions which are registered and which provide for reference to the Court of Arbitration;

(v) to decide industrial disputes referred to it by this Act.

(vi) to decide whether a strike or lock-out or a change is illegal under the provisions of this Act.

(vii) to decide such other matters as may be referred to it under this Act or the rules.

53. By Messrs. T. Mariappa, A. Bheemappa Naik, H. S. Rudrappa, D. S. Mallappa and A. G. Ramachandra Rao.—That a new clause be added to this Bill to the following effect and the same may be numbered as section 39:—

The Government shall have power to call for, and inspect, the profit and loss account of any industrial undertaking with a view to see whether proper wages are paid to the workers

and whether housing, welfare and other amenities are provided to the employees."

54. By Mr. V. Vedavyasacharya.—" Motion that after clause 38 of the Bill the following clause be added, namely—

"39. In any case of public emergency the Government may, by notification in the official Gazette, exempt any employer from the requirement of sub-section (1) of section 10 and of sub-section (1) of section 22 of this Act in respect of item 3 and item 5 (so far as it relates to total weekly hours of work) of Schedule II for such period as it may deem fit."

Printed by the Superintendent at the Government Press, Bangalore.

THE MYSORE LEGISLATIVE COUNCIL

NOTICE OF AMENDMENTS.

~~December 1941.~~

THE MYSORE LABOUR BILL.

Clause 2.

1. By Mr. S. Narayana Rao.—That for clause 2, the following clause be substituted, namely:—

"2. The right of industrial employees to form associations for securing their welfare and for the promotion of their common interests is hereby recognised and declared."

2. By Mr. G. Benn White.—That in sub-clause (1) the following addition be made at the end:—

".....provided that only one association of employees shall be constituted within an industrial undertaking."

3. By Mr. S. Narayana Rao.—That sub-clause (2) be omitted.

4. By Mr. T. Ramachandra.—That after the words "small industrial undertaking" the words "employing less than 100 persons" be added.

lause 3.

5. By Mr. M. Ramachandra Rao Scindia.—That in sub-clause (8) the words "or clerical" be omitted.

6. By Mr. T. Ramachandra.—That in sub-clause (8) after the words "any person" in the first line, the words "not below the age of 14" be inserted.

7. By Mr. S. Narayana Rao.—That for sub-clause (10) the following be substituted:—

"'Industrial dispute' means any dispute or difference between an employer and employee, or between employers and employees, or between employees and employees and which is connected with any industrial matter."

8. By Mr. S. Narayana Rao.—That sub-clause (12) be omitted.

9. By Mr. S. Narayana Rao.—That a definition be added as follows

"A labour association' means any combination formed primarily for the purpose of regulating the relation between employees and employers, or between employees and employees and includes any federation of such associations.'

Clause 7.

10. By Mr. S. Narayana Rao.—That for sub-clause (e) the following be inserted :—

"the admission of ordinary members who shall be members actually engaged or employed in the industry concerned and also the condition for the admission of honorary members as officers ; provided that not more than half shall be so admitted into any association."

Clause 8.

11. By Mr. S. Narayana Rao.—That after sub-clause (g) the following shall be added as sub-clause (h), the existing sub-clause (h) being re-numbered as sub-clause (i)

"the payment, in furtherance of any of the objects on which the general funds of the association may be spent, of contributions to any cause intended to benefit the employees in general, provided that the expenditure in respect of such contributions in any financial year shall not at any time during that year be in excess of one-fourth of the combined total of the gross income which has up to that time accrued to the general funds of the association during that year and of the balance at the credit of those funds at the commencement of that year

12. By Mr. T. Ramachandra.—That the following sub-clause be added :—

(h) "(i) The expenses incurred for the election of Representatives of Labour provided by statute for the Houses of Legislature and Local Bodies in the State,

(ii) Publication of periodicals and literature dealing with the condition of betterment and welfare of labour."

Lost by 9 votes against 3

New Clause.

13. By Mr. S. Narayana Rao.—That after clause (8) the following new clause be added:—

Constitution of a separate fund for political purposes.

(9) (1) A registered association may constitute a separate fund, from contributions separately levied for or made to that fund, from which payments may be made, for the promotion of the civic and political interests of its members, in furtherance of any of the objects specified in sub-section (2).

(2) The objects referred to in sub-section (1) are:—

(*a*) the payment of any expenses incurred, either directly or indirectly, by a candidate or prospective candidate for election as a member of any legislative body constituted under the Government of Mysore Act, 1940, before, during, or after the election in connection with his candidature or election; or

(*b*) the holding of any meeting or the distribution of any literature or documents in support of any such candidate or prospective candidate; or

(*c*) the holding of political meetings of any kind, or the distribution of any political literature or political documents of any kind.

Lost by 9 against 3

Clause 9.

14. By Mr. S. Narayana Rao.—After sub-clause (3) a new sub-clause be added as follows:—

"(4) The Commissioner may refer any matter arising before him in any proceeding under this Act to the Court of Arbitration for its decision and any order passed by the Commissioner in such proceeding shall be in accordance with that decision."

Withdrawn

Clause 13.

15. By Mr. S. Narayana Rao.—That in sub-clause (2) for the word 'jointly', the words 'separately or conjointly' be substituted.

Lost by 9 against 3

16. By Mr. G. Benn White.—That sub-clause (3) be substituted by the following sub-clause :—

"The Chief Conciliator shall thereupon submit the application within three days of its receipt to the Government who shall refer it to the Court of Arbitration or to the sole Arbitrator, if one is mentioned in the application, within seven days after receipt of such application."

17. By Mr. S. Narayana Rao.—That after clause 3, the following new clause be added :—

"(4) The Government may, at any time, refer any industrial dispute to the Court of Arbitration, if it is satisfied that—

(1) a serious outbreak of disorder or a breach of the peace is likely to occur, or

(2) a serious or prolonged hardship to a large section of the community is likely to be caused by reason of the continuance of the industrial dispute; or,

(3) the prospect or scope for employment is curtailed as a result of the continuance of the industrial dispute."

New Clause.

18. By Mr. S. Narayana Rao.—That after clause 3 following new clause be inserted :—

(1) The Court of Arbitration shall consist of three members, one of whom shall be its President.

(2) Every member of the Court shall be a person—

(a) who is not connected with any industry, and

(b) who is or has been a Judge of the High Court or is eligible to be appointed a Judge of the High Court

Lost by 7 votes against 4

(3) Subject to the provisions of this Act, the Court of Arbitration may regulate its own procedure.

Clause 22.

19. By Mr. M. Ramachandra Rao Scindia.—That in sub-clause (1) for the words "Rupees five thousand" the words "Rupees two thousand five hundred" be substituted.

Lost by 4 against

20. By Mr. M. Ramachandra Rao Scindia.—That in sub-clause (2) for the words "Rupees one hundred" the words "Rupees fifty" be substituted.

21. By Mr. G. Benn White.

Mr. M. Ramachandra Rao Scindia.—

That after sub-clause (2) the following sub-clause be inserted as sub-clause (3):—

"22 (3). Any registered association intending to prefer a complaint under this clause shall first obtain a certificate from the Registrar that there is a *prima facie* case on which to found such complaint."

Lost by 6 against 3

Clause 23.

22. By Mr. M. Ramachandra Rao Scindia.—That in sub-clause (2) for "Rs. one thousand" the words "Rs. five hundred" be substituted.

Lost by 5 against 4

23. By Mr. M. Ramachandra Rao Scindia.—That in sub-clause (3) after the words "kept out of employment" the words "up to the final decision in the case" be added.

Carried by 5 against 4

24. By Mr. M. Ramachandra Rao Scindia.—That sub-clause (4) the following sub-clause be inserted:—

"23 (4). Where the offence is one of wrongful reduction or other punishment, the Court trying any offence under this clause may direct that out of the fine recovered such amount as it may deem fit shall be paid to the employee concerned, as compensation."

Withdrawn

25. By Mr. G. Benn White.—That sub-clauses (3) and (4) be deleted and the following sub-clause be inserted:—

"23 (3) The Court trying an offence under this clause may direct that out of the fine recovered, such amount as it may deem fit shall be paid to the employee concerned as compensation."

Lost by 6 against 1

Clause 24.

26. By Mr. S. Narayana Rao.—That clause 24 Bill be deleted.

Clause 25.

27. By Mr. G. Benn White,
Mr. M. Ramachandra Rao Scindia.—

That this clause be substituted by the following clause.

"25. ~~Every~~ A strike shall be illegal ~~which~~ is commenced or continued—

(a) in contravention of the terms of a registered agreement or award;

(b) only for the reason that the employer has not carried out the provisions of any standing order or has made an illegal charge;

(c) without giving notice in accordance with the provisions of clause 10, and where an agreement is not arrived at before the initiation of conciliation proceedings;

(d) in cases where conciliation proceedings in regard to the industrial dispute to which the strike relates have commenced before the expiry of fourteen days and after the expiry of two months from the publication of the report;

(e) in cases where the dispute has been referred to arbitration, before an award has been given."

New Clause.

28. By Mr. M. Ramachandra Rao Scindia.—That after clause 26, the following clause be inserted:—

"26-A. The Registrar shall on the written ~~request~~ application of employer or a Registered Association declare within 3 days ~~17 hours~~ such a strike or lock-out ~~to be~~ legal or illegal as the case may be.'

Clause 27

29. By Mr. S. Narayana Rao.—That for the words "declared by the Registrar to be illegal" the words "declared by the Court of Arbitration to be illegal" be substituted.

Lost by 9 against 13

Clauses 27 and 28.

30. By Mr. G. Benn White,
Mr. M Ramachandra Rao Scindia.—

That after the word "shall" in line 3 of both the clauses the following be inserted:—

"if the Court finds that such declaration is correct and in accordance with the Act."

By Mr. T. Ramachandra.—

That after the ends "after it has been declared by the Registrar to be illegal", the words "in accordance with the provisions of the Act" be inserted.

Clause 29.

31. By Mr. T. Ramachandra.—That in sub-clause (*b*) for the words "industrial matter" the words "industrial dispute" be substituted.

New Clause.

32. By Mr. G. Benn White.—That after clause 29 a new clause be added as follows:—

(1) "The Registrar shall on the written request of an employer, or a registered association, declare within 72 hours a lock-out or strike to be legal or illegal as the case may be;

(2) An appeal shall lie to the Court of Arbitration from the declaration of legality or illegality of a strike or lock-out by the Registrar, provided that such appeal is preferred within 15 days from the date of ~~settlement~~ exclusive of the time required for obtaining a copy thereof"

Clause 32

33. By Mr. T. Ramachandra.—That a new sub-clause be added as follows:—

"And no non-registered association of employees shall be permitted to be organised and any one contravening this sub-clause shall, on conviction be punishable with imprisonment extending to three months or with fine or with both."

Clause 37

34. By MR. T. RAMACHANDRA.—That the following new sub-clause be added:-

"The manner in which the Police or the Magistrate shall take cognisance of an illegal lock-out or strike, under the provisions of the Act."

New Clause.

35. By MR. S. NARAYANA RAO.—That a set of clauses dealing with arbitration be added to the bill to the following effect:—

1. (1) Any employer and a registered association may, by a written agreement, agree to submit any present or future industrial dispute or any classes of such disputes to arbitration of any person whether such arbitrator is named in such agreement or not. Such agreement shall be called a submission.

(2) Any such agreement arrived at before the coming into force of this Act between an employer and a union shall also be deemed to be a submission.

(3) Such submission may provide that the dispute shall be referred to the Court of Arbitration.

(4) A copy of every such submission shall be sent to the Registrar who shall register it in a register to be maintained for the purpose.

2. In the absence of an agreement to the contrary, every submission shall be irrevocable:

Provided that the submission to refer future disputes to arbitration may at any time be revoked by any of the parties to such submission by giving the other party six months' notice in writing:

Provided further that before the expiry of the said period of six months, the parties may agree to continue the submission for such further period as may be agreed upon between them.

3. The proceedings in arbitration under these sections shall be in accordance with the provisions of Schedule 2 of the Code of Civil Procedure, in so far as they are applicable and the powers which are exercisable by Civil Court under the said provisions shall be exercisable by the Court of Arbitration.

4. No conciliation proceedings shall be commenced spect of any dispute if—

(a) the majority of the employees directly affected by such dispute are members of a registered association which is a party to a submission relating to such dispute, ~~or~~

~~(b) some of the employees directly affected by such dispute are members of a representative association which is a party to such submission.~~

5. The arbitrator may refer any matter in which a decision on any question of law is required to the Court of Arbitration for its decision. Any award made by the arbitrator shall be in accordance with such decision.

6. The arbitrator shall, after hearing the parties concerned, make an award which shall be signed by him.

7. Notwithstanding anything contained in these sections, if no provision has been made in any submission for the appointment of an Arbitrator or where by reason of the act of parties or any circumstances, the appointment of an Arbitrator or an umpire is not possible, such dispute shall be referred to the arbitration of the Court of Arbitration.

8. The arbitrator or the Court of Arbitration shall give notice of the award made by him or it to the parties and forward a copy of the award to the Registrar and the Commissioner of Labour.

9. The award shall come into force on the date stated in the award or where no such date is stated therein on the date on which it is registered by the Registrar in a register kept for this purpose.

2. (1) That this clause be added to the Bill defining the duties of the Court of Arbitration.

(2) "It shall be the duty of the Court of Arbitration—

(1) to decide appeals from the orders passed by the Registrar under this Act;

(2) to decide all matters which may be referred to it by the Registrar or the arbitrator.

(3) to decide appeals from the Commissioner of Labour regarding standing orders;

(4) to decide industrial disputes in accordance with submissions which are registered and which provide for reference to the Court of Arbitration

(3) ~~(5)~~ to decide industrial disputes referred to it by this Act.

~~(6) to decide whether a strike or lock-out or change is illegal under the provisions of this Act.~~

(4) ~~(7)~~ to decide such other matters as may be referred to it under this Act or the rules.